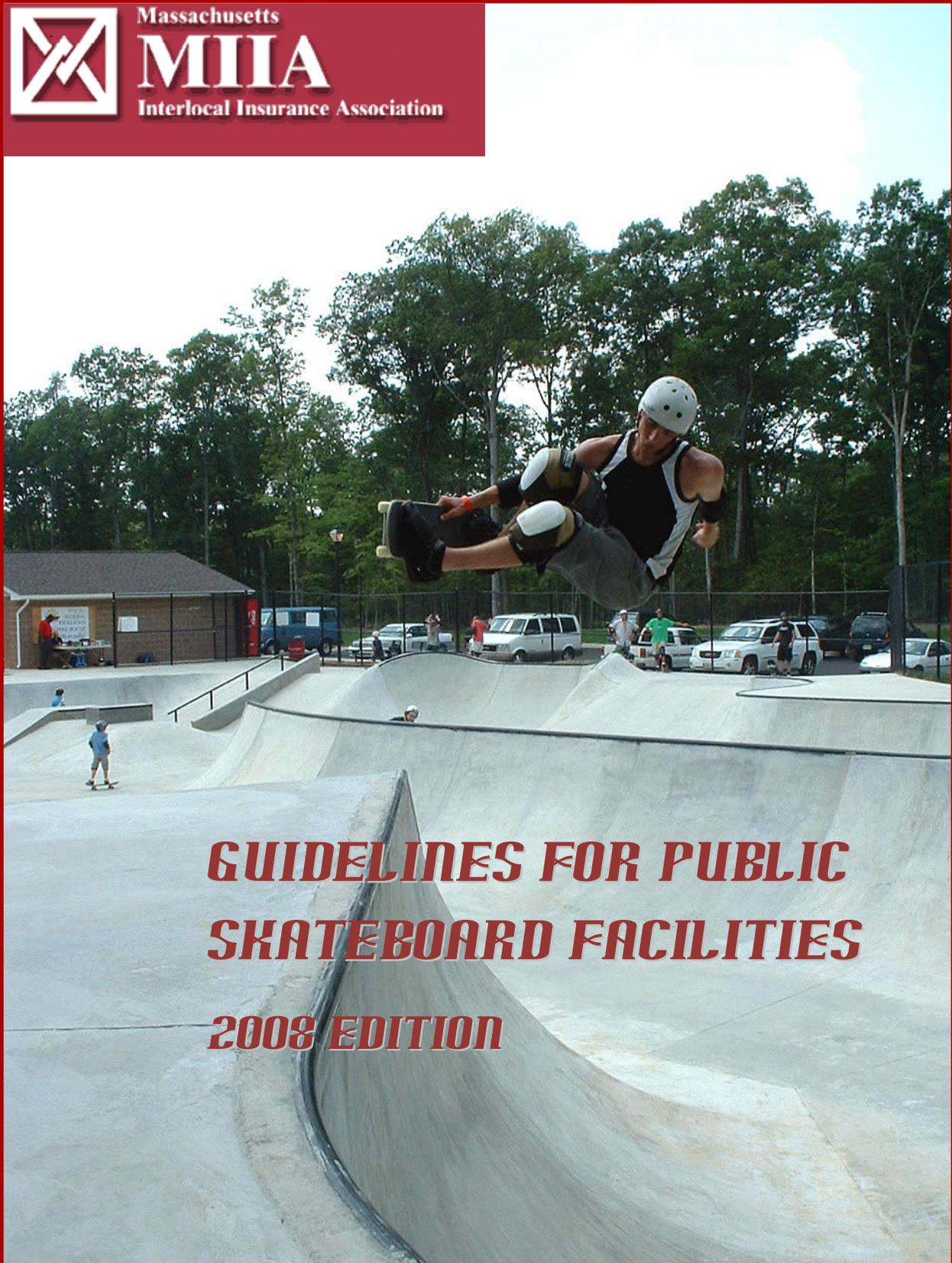




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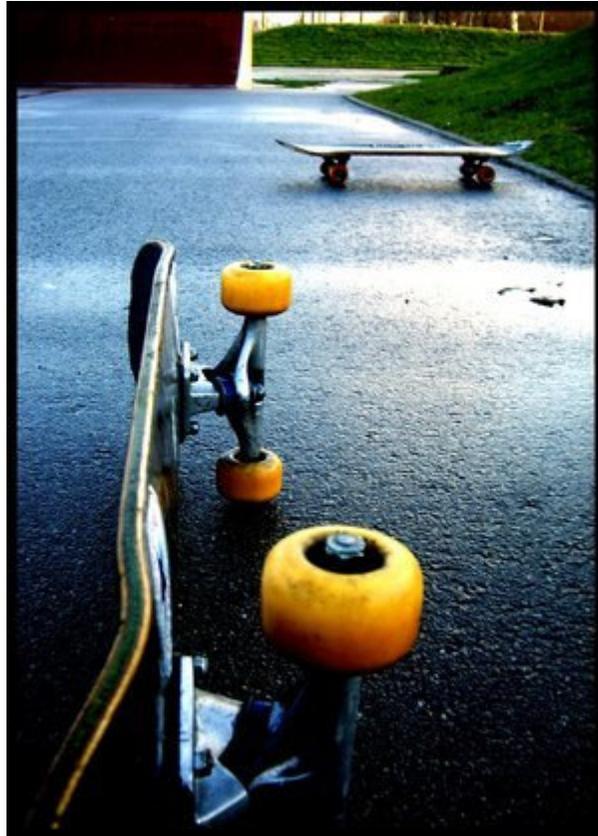


***GUIDELINES FOR PUBLIC
SKATEBOARD FACILITIES
2008 EDITION***

Guidelines for Public Skateboard Facilities 2008 Edition

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Part I: Background



Introduction

The purpose of this publication is to assist the members of the Massachusetts Interlocal Insurance Association (MIIA) with managing the risks associated with providing a public skating facility for your residents. These risks may include the potential for a liability claim or lawsuit resulting from an injury that may occur on your property as well as the potential for a property claim due to vandalism or weather event. These guidelines will also help you to understand your responsibilities as a landowner and your requirements under the law to protect the public.

The sport of skateboarding is more popular now than ever. As with any recreational activity, the inherent risk at a skate park is evident. Many skateboarders would argue that their sport is not any more or less dangerous than any other physical contact sport. Given injury statistics this may be true. However, since the municipality is often providing the property as well as the insurance coverage it is their duty to ensure that all precautions are taken and that the facility is properly maintained.

Skateboarding Facts

There are 12.4 million skateboarders in the US, according to market research firm *BoardTrac*, meaning that a 4.3% of American citizens are skateboarders.

Participation in skateboarding is up 36% since 1997.

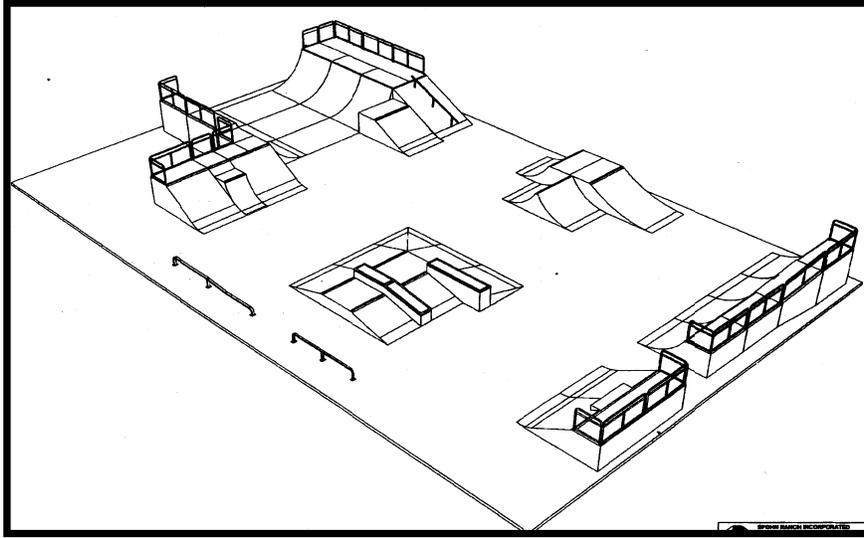
Skateboarding is growing faster than mountain biking, golfing, and 50 other sports tracked by the National Sporting Goods Association.

Recent statistics from NEISS show that the rate of skateboard-related injuries continues to increase more quickly than the number of new entrants to the sport.

Between 1998 and 2001 injuries increased by an average of 16,500 per year.

In 2001, more than 100,000 people, ages 7 years and older, visited an emergency department for skateboard-related injuries.

Part II: Designing a Park



Design Considerations

The design of the skate park will have a significant impact on its success and its problems in the future. The skating facility should be designed and constructed with a commitment to reducing the risk of injury to its users and to reduce the liability exposure to the local government. The purpose of the skating facility, park, ramp, or “area” should be to give skaters a safer alternative to skating on streets, sidewalks, and in parking lots.

Based on MIIA’s experience with its members, the involvement of the user group is crucial to the park’s chances of success. Without skater involvement, the park may be ill-designed and result in little use of the park. There are designers and manufacturers with experience with skate park sports and equipment and carry product liability and other related insurance coverage. The municipality should obtain a commitment from the contractor indicating that the facility meets any Consumer Product Safety Commission (CPSC) or American National Standards Institute (ANSI) standards, if applicable. If possible, obtain an indemnity agreement from the contractor.

Although MIIA doesn’t oppose their use, it is not advisable for an entity to construct ramps on its own, using free ramp plans from the Internet or those purchased from someone. Generally, these obstacles in the plans are all wood, which do not hold up well under the typical usage that a town/city park would experience. Subsequent maintenance and liability issues will likely arise with substandard equipment.

MIIA should be notified prior to the opening of any new public skating facility. A loss control consultant will be assigned to inspect your facility. Insurance coverage may be jeopardized in the event the municipality fails to notify MIIA or comply with loss control recommendations, as there are specific endorsements required for coverage of skating facilities.

The ideal location for a skating facility is in a park with access to restrooms, telephone, drinking fountains, bike racks, trash receptacles (non-movable) and shade. The facility should be well-lit if open after dark and highly visible to town/city personnel such as police or parks employees. The facility should also be easily accessible for emergency vehicles.

In the design process, take into consideration skaters’ differing abilities. Since younger children have not developed the bone structure as older children, the risk for injury to younger children is greater. Therefore, depending on skill level, younger children should be limited to using more basic equipment. If possible, the facility should be divided into areas designated for beginners and more experienced skaters. Structures such as ramps 3 feet or less in height are generally safer than taller ramps. In general, ramp height should be limited to no higher than six feet in open public skate parks since most skaters will not have the abilities to skate such ramps.

A park designer can assist with creating a park that will have different areas for different skating abilities.

Skateboard runs should be clearly labeled as to degree of difficulty. Children younger than 10 years of age should not use the skate park without a parent or guardian. The American Academy of Pediatrics recommends that children younger than 10 years old should not use skateboards without close supervision by an adult or responsible adolescent. Children younger than 5 years old should not use skateboards. Younger children have a higher center of gravity, their neuromuscular system is not well developed, and they are not sufficiently able to protect themselves from injury (American Academy of Pediatrics, “Skateboard and Scooter Injuries”, Pediatrics, March 2002).

There are generally three types of skateboarding structures: half-pipes, bowls and street skating features. Each type of skating is different and design must be carefully considered. The skater involvement in the selection of structures is very important to make sure they are challenged enough to continue using it.

Construction

There are various materials being used in skate park obstacle and ramp construction. Obstacles utilizing wood or masonite over wood may be subject to deterioration caused by temperature change, rain, and heavy use. Time and money spent repairing such items may be substantial. Items made out of steel, concrete, or composite materials over a wood or steel frame might be better suited for your environment, despite the higher initial costs.

Obstacles made of steel are durable and movable. The skating surface can be precision-engineered 12-gauge steel, with a textured surface applied to the steel surface in order to give riders grip. However, steel is considered noisier than other skating surfaces.

Composite materials with steel framing combine advantages of wood, plastic and metal into one material. The surface is typically laminated or screwed on to base layers of wood, plastic or steel. These materials provide a good smooth skating surface that stands up quite well to typical rider use. These materials may be resistant to weather and high usage. However, the surface may have to be replaced periodically as part of normal maintenance.

Concrete is durable, but may be more costly, depending upon the size of the park. Larger concrete parks may be more economical than large modular parks. Site selection and design are very important. If concrete is utilized, keep in mind that construction crews should be experienced. Edges and concrete work must be done with the skating application in mind. Municipalities throughout the country have experienced problems associated with concrete construction, including bowls that were built without drains, resulting in water in the bowls, often rendering them useless.

Even with excellent design, inadequate construction can ruin a project. Designers and manufacturers have more information on materials and construction, including product warranties and maintenance recommendations.

It is important to remember that when selecting materials, consider maintenance and operations costs in addition to initial capital costs.

Carefully review the advantages and disadvantages of materials with your skate park consultant. Consideration should be given to providing handrails, intermediate rails, side rails and/or toe boards for those pieces of equipment over four feet in height that have platforms. If kickboards and/or steps are provided, these should be painted in a contrasting color to help alert visitors of potential trip and fall hazards. Sharp angles and edges next to the platforms on ramps should be constructed with curved railings. Ramp platforms over four feet in height should have 42-inch high side and back protection with a mid-rail capable of sustaining a force of two hundred pounds applied in any direction. Exterior access such as a stairway with a handrail to the platform might be added.

The placement of modular equipment is very important to skaters, and it is a good idea to seek feedback from skaters of all ability levels. Refer to carefully researched design of the park layout. Once larger ramps or pieces of equipment are in their permanent positions, consideration should be given to anchoring these pieces in place. Bolt extensions should be limited to no more than two threads and covered with an acorn-style bolt nut. Equipment should be arranged so that it does not interfere with other skating maneuvers.

The joining of skating equipment should only be done where recommended by the manufacturer. Joining of grinding rails should be discouraged due to potential gaps between the rails, unevenness of the pieces and the possibility of catching any skateboard or rollerblade wheel in the gap which may increase the likelihood of injury. Grinding rails and grinding platforms should also be secured so that they cannot be relocated to another section of the park or stolen.

Surfacing

Surfacing conditions are critical for both the rider's enjoyment and safety.

Concrete surfacing, typically found in bowl layouts, should be specifically formulated for use with skate wheels. Your design consultant or contractor should identify specific products appropriate for concrete surfacing.

Asphalt surfacing, typically found in neighborhood skateparks, should be smooth with no cracks, deterioration. Retired tennis courts under consideration for conversion to a skating facility should be paved and/or smooth coated.

Regardless of material, the skating surface should not present hazards that can jam wheels.

Layout/Environment

Skaters for Public Skateparks, a nonprofit advocate of public skating facilities provides *The Skatepark Adoption Model*. This model is a simple formula for determining the size of your skatepark. This helps you to determine the number of skateboarders in your community and how much terrain those skateboarders require, and some different ways of distributing that terrain to best serve the needs of the community.

The process is very simple. The statistics used in the Skatepark Adoption Model are pulled from U.S. research data and may be less accurate for other countries. The end result will be a skatepark recommendation tailored for your community.

1. Define Your Target Area

The area that you want to analyze is your target area. It might be a town, group of towns, zip code, etc. The formula is the same regardless of the size. It is better to choose a target area that is well defined rather than an area that is sometimes vague like a business district or a neighborhood. Census information works well and is accurate enough for the purposes of establishing your target.

Example: Marlborough, Massachusetts

Population of Marlborough is 38,000.

2. Apply the Skateboarder Percentage

According to 2000 market research analysis there were 12.9 million skateboarders in the United States. At that time there were 281.4-million people in the country. That means that 4.6% of the population in the United States are skateboarders. This reflects all of the casual skateboarders who ride once a month or less. Frequent skaters comprise about 25% of this group.

Take your target area's population and **multiply it by 4.6%**, (.046), to get an estimate of how many skateboarders are in your target area.

Skateboarders in Marlborough, MA = $38,000 \times 0.046 = 1,748$.

There are approximately 1,748 skateboarders in Marlborough.

You can find out how many of those skateboarders are regular riders by multiplying the total number of skaters by 25%, or .25. This level of detail is not required when determining your total skatepark need; it simply adds a degree of information that may be useful when talking about the composition of the local skateboarding community.

Regular Skaters in Marlborough, MA = $1,748 \times 0.25 = 347$

Of the 1,748 skateboarders in Marlborough, approximately 347 are regular skaters and 1401 are casual or occasional skaters.

3. Determine the Needed Terrain

Skaters for Public Skateparks have determined that the target area requires about 1.5 square feet of terrain, per skater. **MIIA recommends 2 square feet** of terrain.

Note: this doesn't hold true in very small samples, as eight skaters will not enjoy skating on a 4 by 4-foot square for very long, but it is a reasonable measure for communities with more than 200 skaters.

This measure also does not address the character of that terrain. The best skateboarding terrain is diverse and provides opportunity for a variety of tastes and skill levels. This step in the *Skatepark Adoption Model* is useful only for establishing a total amount of terrain...not the terrain style.

Multiply your total number of skaters by 2 to determine how much skateboarding terrain your community requires. The result can be rounded up or down to the nearest 100. This is the total skateboarding terrain need for your target area.

$$1,748 \times 2.0 = 3,496$$

Skateboarders in Marlborough, MA require 3,500 square feet of skateboarding terrain.

Skateboarders for Public Skate Parks have determined that the 1.5 square foot factor takes into consideration the number of skaters in a community likely to be skating simultaneously at peak periods during a week. Special conditions may produce more terrain need than the 1.5 factor delivers. For example, a community's skating facilities will likely be over capacity on the first sunny day after a streak of bad weather. For this reason, MIIA recommends using a factor of 2.0.

4. Distribute the Terrain

Larger communities will clearly have a greater skatepark need. Use of this model among larger communities may result in what would appear to be an absurdly large skating facility, however it is important to remember that this is the TOTAL amount of terrain that can be distributed across several skating facilities.

The nation's largest skateparks today are about 40,000 square feet. The smallest skateparks are single structures. Each community's characteristics should be considered when determining the number and sizes of skateparks. While it may be more expedient to develop a single large facility, skateparks distributed across the target area often better serve the local skateboarding community, as well as provide greater community access. If your recommended terrain is **10,000 or larger** you may consider distributing that total footage across more than one site in your target area.

If your recommended terrain was less than 8,000 square feet no distribution is necessary. A single facility should meet the target area's needs provided it is centrally located.

In our example, the City of Marlborough, MA should consider a single park approximately 70 feet by 50 feet.

5. *Scale the Skateparks*

In larger communities the total amount of skatepark terrain should generally be **divided by the number of neighborhoods** in the target area.

Smaller parks serve users with greater constraints on their time or mobility while the larger park captures those users seeking a full skatepark experience. These larger parks often have a regional draw. These parks are usually 20,000 square feet or larger and feature a full range of terrain styles. Site amenities such as bleacher seating, lights, restrooms, and should be considered.

Residential neighborhoods often have smaller skateparks often referred to as *skate spots*. Skate spots typically do not feature any of the site amenities found at regional parks (except for maybe a park bench, water fountain, and a trash can).

The largest parks are known as regional skateparks and the smallest are called skate spots. The "medium-sized" park between these extremes is known as *neighborhood skateparks*.

Neighborhood skateparks can be anywhere between 8,000 to 18,000 square feet. Neighborhood skateparks should feature a variety of terrain styles and cater to different skill levels.

Neighborhood skateparks should be adjacent to other community attractions such as playgrounds, ball fields, and retail shopping districts. The nation's most successful neighborhood skateparks are positioned in areas that serve other community needs and enjoy the benefits of pedestrian traffic and social contact with non-skaters.

Important Note: Regardless of the size of the skating facility, equipment or obstacles within the park should be placed with a clearance zone of at least six feet around each piece of equipment or obstacle. Clearance zones should be free of any obstacle or hazard that may interfere with the intended or unintended travel of users and/or skateboards.

Equipment

A wide variety of equipment is in use in public skating facilities. The design of skating obstacles is limited only by the imagination. Some home designs have been developed despite contradictions to laws of physics. Such equipment often finds its way into public skating facilities. Below is a description of the most popular obstacles found in public skate parks.



Quarter pipes are popular pieces of equipment found in skateparks throughout Massachusetts. The curved surface of a quarter pipe directs riders up and above the ramp, enabling riders to perform a trick and then land back onto the ramp and roll away.



Skate park *banks* are similar to quarter pipes but without the curved surface. Typically placed at the perimeter of a skatepark for riders to drop in, start a session or perform a technical trick.



Two quarter pipes, configured back-to-back without a deck make a *spine ramp*. A narrow ridge or spine is created at the top to provide users with an obstacle for performing challenging maneuvers.



Pyramids allow riders to change the direction of flow while doing a trick and generating speed. Rails and ledges are sometimes added to the top deck to create additional, challenging obstacles.



The *drop-in* is a multilevel obstacle typically consisting of a quarter pipe joined end to end with a bank ramp by a connecting mid-deck. This equipment can vary widely in length and width. It sometimes contains stairs, rails and ledges to offer a variety of riding experiences in one piece of equipment.



Launch boxes are two curved ramps connected by a raised platform. Launch boxes allow riders to approach from one side, catch air, land on the deck or fly over it. This is a popular piece of equipment found in Massachusetts skateparks.



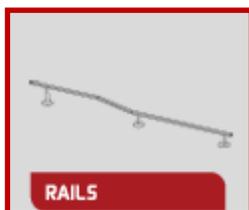
Two quarter pipes, banks or combinations are arranged at 45- or 90-degree angles and connected by a shared deck to make a skate park **hip ramp**. This shared platform helps redirect flow patterns and is popular among skateboarders.



Two quarter pipes facing each other with a flat bottom surface in between create a **half pipe**. The half pipe allows riders maintain speed necessary to executing multiple tricks. .



Grind boxes are smooth flat platforms (with or without steel edging) designed for more advanced sliding and grinding tricks.



Styled after stairway rails, riders can finesse their balancing skills while grinding their way to the end. **Grinding rails** provide challenges for experienced and novice skateboarders. The rails are also used for jumping over. Several varieties of grind rails are present in Massachusetts skateparks.

Important Note: As stated in the *Layout* section of this part of these guidelines, equipment or obstacles within the park should be placed with a clearance zone of at least six feet around each piece of equipment or obstacle. Clearance zones should be free of any obstacle or hazard that may interfere with the intended or unintended travel of users and/or skateboards.

Blended Use Considerations

While designing the park, the issue of bicycles at the park may have to be considered since there are many bicycle users. Bicycles are heavier and have pegs that can damage the equipment. Depending upon the equipment and design, BMX bicycles might be permitted at the facility, but consult with the designer and manufacturer.

Allowing bicycles may necessitate a larger or separate facility. If bicycles are permitted, then hours may have to be designated because the mix of skaters and freestyle bikers might cause safety problems.

Remember, users on bicycles present a larger surface area, which increases the likelihood of collision when all other conditions remain unchanged.

Municipalities should carefully consider what modes of recreation will be permitted in the park. Inline and traditional roller skates, scooters, bicycles, and other recreational equipment with wheels will surely find their way into the park. MIIA does not oppose providing challenging recreational areas for these additional activities; however prudence should be exercised in determining what activities are permissible.

Part III: Operating a Skate Park



Admission/User Fees

It is strongly suggested that municipalities consider **not** charging admission or user fees for skate parks, and other recreational facilities. Charging fees for use of these facilities will eliminate the possibility of a “recreational use” defense in the event of a lawsuit or general liability claim.

Supervision

The question of whether or not supervision should be provided at skate parks is often debated. In terms of protection against liability it is better to **not** provide supervision at skate parks because it implies that a municipal representative would be enforcing safety rules, thus nullifying the “skate at your own risk” warning that should be posted.

However, it is still prudent if rules are being violated or if someone is acting in a way that could cause injury to another that action should be taken. You might also consider asking the police department to take notice of skating after hours.

Inspections & Maintenance

A MIIA Loss Control Consultant will conduct an initial inspection of skating facilities reported to MIIA for coverage. A detailed report containing written recommendations will be provided to the municipality. In response, the municipality should provide a written action plan to comply with recommendations in order to maintain adequate coverage. MIIA’s Loss Control team will work closely with MIIA members in bringing skate parks to recommended conditions.

Skating facilities begin to suffer wear and tear the moment they are installed. Skate park structures will suffer intense wear, regardless of construction or materials. “Maintenance-free” parks do not exist. MIIA members should develop an inspection and maintenance program for this an all other recreational facilities.

MIIA recommends monthly inspections performed by a competent person. These regularly scheduled checks of the facility for any visible hazards or repair needs should be documented. All documentation should remain on file in accordance with your records retention policies.

Included in all inspections should be any walking or standing surfaces, fencing, steps, handrails, spectator areas, and/or any construction deficiencies. Perimeter areas such as sidewalks, parking areas, driveways, etc. should be inspected periodically for any deterioration that may contribute to trip and fall injuries.

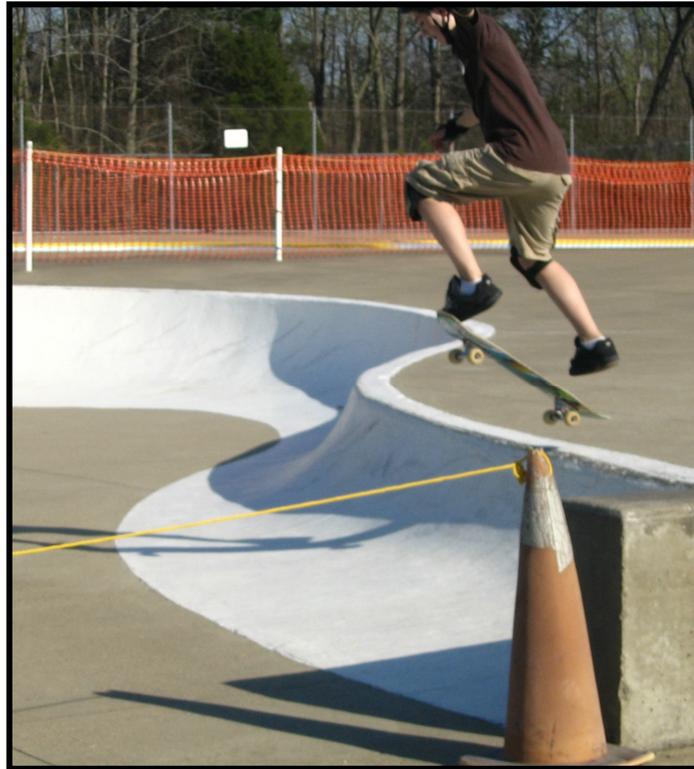
Special attention should be paid to riding surfaces as surfacing contributes to many skateboarding injuries according to a Consumer Product Safety Commission publication (CPSC Publication #93, “Skateboards”).

All maintenance and repair work should be documented as to the type of maintenance performed, the name of the employee performing the work, and the date completed.

Take care in removing graffiti. Check with the manufacturer of the equipment for appropriate products as some treatments may affect the smoothness (or stickiness) of the skating surface. For light cleanup, some entities provide a broom so that skaters can remove rocks, leaves, sand, and other debris that can interfere with the safe operation of skateboards.

Involve the users. They can help keep the park clean and report deficiencies.

Part IV: Risk Control



Rules & Regulations

Well thought-out rules should be established and posted in a conspicuous location. Clearly state which recreational activity for which the facility is designed. If the facility is meant for skating, rollerblading and biking, then signage, accident report forms, applications, waivers and other documents should have the wording to include all intended activities.

Rules should include, but are not limited to, the following:

Skate Park Rules

Hours of operation are _____ to _____ .

Helmets are required for all users ages 16 years and younger, per Massachusetts law. (M.G.L. 85 Section 11, as amended by Chapter 330 of the Acts of 2004)

It is strongly recommended that users wear to elbow pads and knee pads.

Younger or less experienced users should wear wrist supports and gloves.

Designated entrances and exits to skating areas should be used one at a time.

Only one skateboarder is permitted on a board at a time.

No bicycles, food, beverages, tobacco products, alcohol or drugs are permitted in this facility.

Children 10 & under must be accompanied by an adult.

Do not proceed down a ramp until it is clear of other skaters.

No outside ramps, jumps or other equipment may be brought into park.

No loud music or disorderly behavior.

No pets allowed in park.

Please dispose of litter in trash cans.

Infractions of rules may result in loss of skating privileges.

Portable ramps, rails or other skate equipment cannot be used at this park.

Graffiti and/or property defacement is not tolerated and will be prosecuted to the fullest extent of the law. (M.G.L. 266 Section 98A)

Have fun, be safe and respect your fellow skaters!

In the event of an emergency, call 911.

Rules should be printed in large print on material that is not easily damaged, defaced, or worn. In order to ensure that parents have received the rules you may want to provide copies of the rules at the park, in a mailer, or on the town's website. The rules should indicate what type of inclement weather conditions that would warrant the park being closed during hours in which the park would typically be open. Also the park rules should indicate what to do in the event of an emergency and who to contact to report the accident after emergency response has been summoned.

Waivers & Assumption of Risk

The use of waivers or assumption of risk forms should also be considered. Before using the facility, skaters and their parents or guardians may be asked to sign waivers or assumption of risk forms. Consult with an attorney familiar with your legal climate. Waivers may deter claims, but they might not be a defense in a lawsuit. Assumption of Risk forms may provide you with better protection. (See Appendices for a sample waivers and assumption of risk forms.) Always consult with legal counsel for review and approval of waivers and releases.

Protective Equipment

It is sensible to recommend the use of safety equipment when using the skating facility, especially for younger or inexperienced skaters. This equipment should include, but is not limited to, the following: **appropriate skateboard that is in good working condition, helmet, knee and elbow pads, and proper shoes**. Protective equipment will help reduce injuries. The most important feature to look for in protective equipment is comfort, design and function. The equipment should not interfere with the skater's hearing, movement and/or vision.

Warnings & Safety Notices

Warning signs should be employed to notify users of their assumption of risk when participating in activities that can result in serious injury or death. Warning sign should be printed in large print on material that is not easily damaged, defaced, or worn. Warning signs should be posted in a conspicuous location. Consideration should be given to providing signs in languages other than English in areas where specific languages are common first languages of the population.

Also: Any description of skating facilities on municipal websites should include warning language.

Sample Sign:

WARNING:

This facility is used by both experienced and inexperienced skateboarders. Serious injury may result from being hit by a skateboard, falling or colliding.

The Town of _____ does not assume responsibility for injuries or damages to personal property.

This facility is made available in accordance with laws governing recreational use
M.G.L. Chapter 21 Section 17c

USE OF THIS FACILITY IS AT YOUR OWN RISK.

Security & Access Control

Public skating facilities should be located in an area that is not susceptible to vehicular intrusion into skating area.

Skating facilities should be enclosed by a fence that is a minimum of six feet in height.

MIIA is aware that some skate parks are designed “into the landscape” and that fencing is not always aesthetically or functionally advisable. MIIA will always consider each park individual for levels of risk.

Access into the skating facility should be through a single, working gate that is able to be secured after hours of operation. It is recommended that parks contain a single entry way in order to safely channel users into the park. MIIA understands that design considerations should ultimately dictate the number of access points into the park.

Park should be secured each day after hours of operation and opened in the morning.

Monitoring park with closed circuit television systems should be carefully considered prior to such practice.

Critical questions to ask regarding the use of CCTV:

- What are we focusing on? Rule compliance? Illegal activity?
- Does this comply with the municipality’s CCTV policies and procedures?
- Are images being monitored remotely? 24/7? Recorded?
- Does monitoring CCTV mean we are “supervising?”

These are questions that municipalities should consult with legal counsel.

Part V: Accident/Incident Response



Accident Reporting

A process for conducting accident investigations should be identified so that if an accident or injury were to occur a timely corrective action can be taken if needed.

An accident report should be completed by the supervisor or person in charge of maintaining the skatepark. This should be a town/city employee.

This documentation should include:

1. Date
2. Time of day
3. Injured person's name, address and phone number
4. Name of the injured person's parent or guardian, if a minor child
5. Names and phone numbers of any witnesses
6. Complete description of the events and circumstances surrounding the accident or injury
7. Cause of the accident, corrective actions felt necessary that may prevent reoccurrence

All incident and accident reports should be kept on file.

In the event of an incident, you should notify MIIA immediately to file a claim. Report all claims or potential claims immediately, even if all details are not available at the time. By doing so, you will protect the coverage afforded you, assist us in conducting immediate and effective investigations, help to control potentially troublesome situations, and allow for timely involvement of legal counsel as appropriate.

Claims can be reported to MIIA via:

Phone Call to 800-526-6442

Fax to 781-376-9907

Online at <http://emiia.org/services/propliabreport.html>

Understanding Municipal Defenses

In the event of a liability claim municipal entities in Massachusetts are protected by several defenses and limitations on claim amounts. In regards to the use of skate parks the following rules apply.

MGL Chapter 258: Chapter 258 controls the lion's share of litigation filed against municipal defendants. This statute proscribes how, when and for how much a municipal defendant may be sued in claims of general negligence. Most general liability claims and all auto liability claims fall under MGL Chapter 258.

Among the major elements of Chapter 258:

- A strict requirement that any potential claimant must provide specific written notice of a claim (referred to as "presentment") to specifically identified municipal representatives within two years of the date of the incident. Failure to provide such written notice makes the claim susceptible to dismissal. The two-year presentment period is not tolled when the claimant is a minor. Even if the claimant is a minor, presentment must be made within two years of the loss or the claim is subject to dismissal. This requirement is independent of the three years statute of limitations, which applies to negligence claims in Massachusetts.
- Exemption of municipal employees from litigation: Under MGL Ch 258, individual municipal employees may not be named as defendants in litigation filed arising out of negligent torts. Only the municipality may be named as a defendant.
- Cap on damages: Chapter 258 specifies that a maximum of \$100,000 might be awarded against a municipality for any negligence claim. Death and significant permanent injury are included within this cap. The maximum amount payable for auto/general liability claims under Chapter 258 is \$100,000 per claim.

A complete copy of MGL Chapter 258 is available at www.state.ma.us/legis/laws/mgl/mgllink.htm.

MGL Chapter 21 Section 17C : Recreational Use Defense. This statute does not apply solely to municipalities, but because of the nature of municipalities, they are most likely to benefit from it. Chapter 21 Section 17C is most commonly known as the recreational use statute. This statute conveys immunity onto any landowner who makes his land available to the general public for recreation ***without charging a fee***. Claims for injuries at playgrounds, gymnasiums and other public venues are most frequently defeated by use of this statute. Case law has broadened the application of this statute to sporting arenas, streets and ways approaching sporting arenas and class of participant (e.g., if the municipality is charging admission but does not charge senior

citizens, although an admission fee was charged, if the senior citizen was not charged, he/she may not bring a claim.)

Therefore if a municipal entity were to charge a fee, depending on what that fee was used for, the entity could be forfeiting the defense under Recreational Use. Please consult your attorney prior to making any decisions regarding the charging of fees at skate parks.

A complete copy of MGL Chapter 21 section 17C is available at www.state.ma.us/legis/laws/mgl/mgllink.htm.

Part VI: Summary



Summary

It is our opinion that implementing the guidelines presented in this publication should reduce the potential for accidents. These recommendations are made from a loss control perspective. Understanding of incident causation, human risk-taking behavior, and recreational facilities, as well as analyses of claims and statistics were applied to create these guidelines.

Please note that these guidelines are not a substitute for legal advice. MIIA does not represent that these guidelines identify and address all of the unsafe or hazardous conditions associated with the operation of a public skating facility, nor do we represent that implementing our recommendations is the best possible solution, as facilities and activities vary.

Final language of any rules, signs, agreements, and/or waivers should be reviewed and approved by your legal counsel prior to implementation.

Part VII: Additional Resources



Additional Resources

Note: No claims can be made as to accuracy of the information at these sites or if the information applies to your entity's specific situation. Legal questions should be posed of your legal counsel. MIIA does not endorse any products provided by vendors. In addition, you might consider talking with another City or Town that has a skate park. Ask manufacturers and designers for references, preferably in New England.

www.spausa.org

The Skatepark Association of the United States of America assists individuals and cities interested in building skate parks. A skate park guide is provided free on the website.

www.socalskatepark.org

The Southern California Skate Park Coalition was developed as a regional forum for identifying concerns, sharing ideas and developing solutions related to the design, construction, and operation of municipal skate parks. The organization has helped people throughout the country.

www.nrpa.org

The National Recreation and Park Association conferences and magazine feature skate park designers and equipment manufacturers.

www.tonyhawkfoundation.org

The Tony Hawk Foundation supports free public parks through grants. The organization also provides technical assistance on design and construction, as well as promotional and training materials.

www.skatepark.org

This website promotes skating, including the building of skate parks. It is the website of *Skateboarders for Public Skateparks*.

www.iisa.org

The International Inline Skating Association provides information on inline skating in particular.

www.skateparkguide.com

This website offers a guidebook for sale that addresses concrete skate parks.

www.skateboardiasc.org

The International Association of Skateboard Companies provides information, along with links to companies and other organizations.

In addition, there are many companies design skate parks, manufacture skating ramps and other features, too many to list. Some of these companies are affiliated with playground equipment manufacturers.

Part VIII: Appendices

SKATEBOARD/IN-LINE SKATER ASSUMPTION, WAIVER AND RELEASE

IN CONSIDERATION of receiving permission from the Town of _____ (hereinafter sometimes called Town) to enter upon the premises known as the facilities, the receipt of such permission being hereby acknowledged, and in the further consideration of receiving permission to participate and utilize said skateboard/in-line skate facilities, the receipt of such permission being also acknowledged, the undersigned participant and his or her parents, if he or she be under the age of 18 years, hereby releases the _____, its agents, officers, servants and employees, of and from any and all liability, claims, demands, actions, and courses of action whatsoever, arising out of or related to any loss, damage, or injury, including death, that may be sustained by the participant, or any property of participant or participant's parents, while in, on, upon or near these premises.

Both participant and participant's parents are duly aware of the risks and hazards inherent upon entering said premises and/or in participating in skateboarding/in-line skating activities at the subject premises, and hereby voluntarily elect to enter -- or have their children enter -- upon said premises and participate in skateboard/in-line skate activities thereon, knowing the present condition of the facilities and knowing that said condition may become hazardous -- or more hazardous, or dangerous -- or more dangerous during the time that the participant is on the premises or continues to, from time to time, use the facilities. The participant, and/or his parents if participant is below the age of 18 years, hereby voluntarily assumes all risks of loss, damage, or injury, including death that may be sustained by the participant or participant's parents or any property of either, while in, on, near or upon the premises and/or skateboard/in-line skate facilities.

This waiver and release shall be binding upon the participant, his parents, their distributees, heirs, next of kin, and personal representatives.

In signing the foregoing Assumption of Risk, Release and Waiver, each of the undersigned hereby acknowledges and represents:

1. That the age affixed next to the participant's signature is his or her correct age, and that both participant and his or her parents (if signed below by parents) are of sound mind.
2. That he, she, or they, have read the foregoing Assumption of Risk, Release and Waiver, and sign below voluntarily.
3. That he, she, or they, know that by signing this Release, Assumption and Waiver, he, she, or they are giving up all rights resulting from participant's use of the premises and facilities which he and/or they have, have had, or may in the future have. **THE UNDERSIGNED HEREBY UNDERSTANDS THAT THIS IS A RELEASE, and that the undersigned are hereby GIVING UP EVERY RIGHT THEY, SHE, OR HE HAS TO RECOVER FOR ANY INJURY, DAMAGE OR DEATH occurring as a result of use of the skateboard/ in-line skate facility.**

4. That the participant and parents, (if their signatures are affixed below), in consideration of the _____ granting the permission heretofore described do hereby expressly stipulate and agree to indemnify and hold forever harmless the _____, its successors and assigns, against loss from any and all claims, demands, or actions in law or equity that may hereafter at any time be made or brought by the participant (be he or she a minor or not) or brought by anyone on behalf of said participant for the purpose of enforcing a claim for damages on account of any injuries received or sustained in consequence of the participant's actions on the premises or facilities.

WITNESS the hands and seals of the participant (and his parents if the participant is a minor) as

of the day and year first above written:

Witness

Participant Signature

Age

Address

Parent Signature

Proof of age exhibited _____

Notary Clause (To be notarized if not executed in the presence of Recreation Department Personnel)

COMMONWEALTH OF MASSACHUSETTS, COUNTY OF, TO WIT: I HEREBY CERTIFY, that on this day, the _____th of _____, 20____,

before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared _____

_____ and did acknowledge the foregoing Assumption, Release and Waiver to be his/their respective act.

AS WITNESS my hand and Seal.

Appendix B: MIIA Loss Control Team

MIIA Special Projects Manager: Jeff Siena

MIIA Senior Loss Control Consultant: Robert Marinelli

MIIA Senior Loss Control Consultant: David Labonte

MIIA Loss Control Consultant: Kevin Perkins

MIIA Loss Control Consultant: John Canty

MIIA Rewards Program Coordinator: Lin Chabra

MIIA Loss Control Administrative Assistant: Mary Ann Marino

MIIA President: Geoffrey Beckwith

MIIA Executive Vice President: Stanley Corcoran

MIIA Operations Manager: John Kelly

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