

~ ~ STATE ACCIDENT PREVENTION CHAIRMEN ~ ~  
**INFORMATION**  
 DECEMBER 2008



**FALLS AT ENTRANCES**

Even before winter season had begun, we seemed to have a number of claims where people fell at the entrance of a Lodge. Sometimes, there has been inclement weather, some minor blockage or a variation in floor level but, many times, such falls occurred without any reason except for the actions of the injured party or the fact that the party was older or had some limited capacity to walk.

Every Lodge should take special care to inspect the various entrances of the Lodge to make sure that they are in proper order. If there are entrances that might have a problem for an older or feeble person, it would be wise to post warning signs, provide assistance or direct access to another entrance that is more user friendly.

As I have said, many of these types of claims are not caused by the Lodge's negligence but, if creative thinking is used, the Lodge can avoid a claim by actions that cancel the ineptitude of the prospective claimant.

**ATTENTION STATE ACCIDENT PREVENTION CHAIRMEN**

For those of you who have not turned in your Accident Prevention Activities Status Report for 2008, please return it to my attention immediately, so that I may include the figures from your report in my reports to the Insurance Subcommittee.

**QUICK SAFETY TIPS**

- Consider changing door locks on a reasonable basis (one every year or so). This limits unauthorized entries and keeps management under control.
- Eliminate parking blocks if possible or make sure they are in place and in good repair.
- Make sure that all steps are in good repair and that these steps have railings.
- Make sure that ceiling fans are in good repair and are functioning properly.

**CARBON MONOXIDE ALARMS/SMOKE DETECTORS**

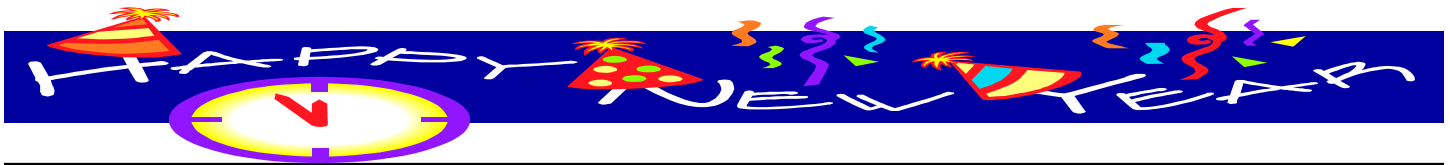
All Lodges should have these devices. Even better Lodges should consider the possibility of a central alarm installation that would include these features. Central alarms provide for both fire and crime prevention. However, for life safety, Lodges should have smoke detectors and carbon monoxide detectors.

Recently, a poorly maintained boiler in a Lodge did not have a carbon monoxide detector and created carbon monoxide that sent some Lodge members to the hospital. This could have been a tragedy. Several smoke and carbon monoxide detectors for a Lodge would cost very little, but the Lodge needs to make sure that the batteries are checked periodically.

**Inside this issue:**

Directors & Officers (D&O)/ Employment Practice Coverage	2
Inspections	2
Handicapped Ramps	2
Misappropriation of Cable TV or other Intellectual Property	3
Cell Tower Installation	3
Use of Lodge Facilities By Others	4
Restaurant Safety (Kitchen Hoods)	4
Security	4
Bingo	4
Major Objective-Proper Service	4
Condensed List of "Information" Topics 2008	5-6
Responsibility of Lodge Officers to Maintain Lodge Buildings	6





## **DIRECTORS & OFFICERS (D&O)/EMPLOYMENT PRACTICE COVERAGE**

As has been explained to all local Lodge Secretaries each year, the Master Liability Program does not provide this coverage. This coverage must be purchased separately by each Lodge either from the Elks' recommended discounted program administered by Aon Risk Services, our service agent or from a local source.

If a Lodge obtains such coverage locally, the Insurance Department of the Elks wants to warn these Lodges that the coverage obtained from this local source may not be as broad or may be less cooperative in the defense of a claim matter.

Recently, we have had a couple of occasions where an independent carrier refused to cover and/or defend allegations made against a local Lodge that would have been defended if presented to the carrier providing coverage under the Elks discounted program.

The coverage under the Elks recommended and discounted program should always be considered rather than a local individual policy because:

- The cost of such coverage is normally lower.
- The coverage that covers the Lodge, its officers and anyone acting as an agent as assigned by the Lodge is broader.
- Because it is a part of a group arrangement, the adjusters are more cooperative in the objective of protecting the Lodge.

If a Lodge has not obtained a quote through Aon Risk Services, they should consider doing so by contacting Aon Risk Services at 1-800-421-3557.

## **INSPECTIONS**

Each Lodge must frequently inspect chairs and stools. Every month, we get one or more claims involving collapsed equipment. Much of these claims could have been avoided if a few common sense policies had been followed:

- Inspect for wear and weakness.
- Replace, don't repair (unless such repairs are done by competent, knowledgeable people).
- Don't use items disposed of by others because they viewed it as worn out.
- Realize the potential user's condition when determining whether to allow continued use of the item. Most of the claims come from overweight individuals. Bingo players always represent the most frequent claimants and are the ones most likely to sue. Make sure that all chairs are solid and able to hold up to a 300-400 pound occupant.

This type of claim represents one of the most frequent types of claims. Save the chair for inspection if an incident does happen.



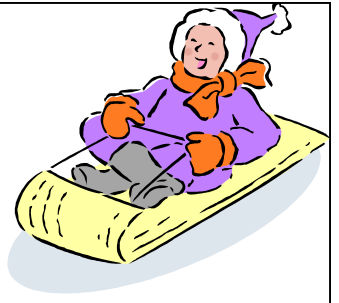
## **HANDICAPPED RAMPS**

I have had a number of cases where people have misused such ramps and have fallen. In some cases, persons with no handicap use such facilities rather than the normal route and fall because of the incline.

Where possible, such ramps should be constructed in the proper fashion and of material that is best for the climactic conditions.

Proper care must be provided for such ramps in conditions of snow, ice or rain.

## MISAPPROPRIATION OF CABLE TV OR OTHER INTELLECTUAL PROPERTY



Every Lodge should be aware and avoid violation of copyrighted items or any other intellectual property in operation of the Lodge. Fees and/or penalties and fines can result. Entertainment conducted in the Lodge by use of movies, recordings, etc. can not be handled in the Lodge in a manner that might be acceptable in a person's home.

One example of a situation that has caused a number of Lodges problems in the last few years is the misappropriation of cable TV in general or Pay-Per-View items specifically. Obviously, the misappropriation of cable or satellite transmissions by the use of unauthorized equipment such as a "black box" can result in criminal prosecution as well as civil fines and damages.

In the case of a specific event such as boxing or other athletic competitions, movies or other such events, we have had a few Lodges that obtain such events by paying the required price for home viewing and utilized this in some way to obtain a showing at the Lodge. Presently, there are active independent investigators who look for any such infraction, whether it be large, small, calculated or inadvertent. These "bounty hunters" are reimbursed by receiving a percentage of the recovery.

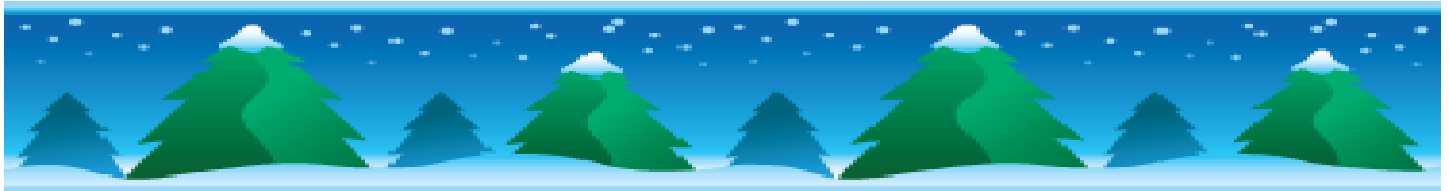
Some applicable statutes indicate a prescribed penalty of \$100,000 per violation. While these amounts are seldom awarded or paid, the Lodge will end up paying for legal defense and some material amount, even if the violation is relatively minor and generated no income for the Lodge. It is important that Lodges be aware of this type of problem.

## CELL TOWER INSTALLATION

Many Lodges have been contacted to have a cell tower installed on its property. Before any contract is signed, it should be reviewed by the Grand Lodge Insurance Department. A local Lodge must also have a local attorney who is knowledgeable in real estate review the contract in every case. Lodges should not be pennywise and pound foolish by trying to handle the contract on its own.

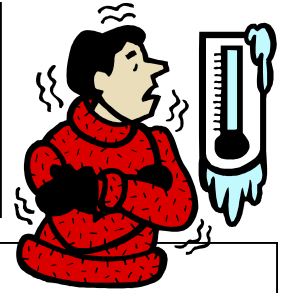
The following are some of the contract changes requested by the Grand Lodge Insurance Department:

- Ask for a higher monthly rate than initially offered.
- A portion of the monthly rent should be paid from the time the contract is signed as payment for holding the option open for the cell company for its use before all permits are obtained.
- The cell companies usually use five (5) years as a term with 4 additional renewals. The Lodge must obtain approval of the State Sponsor and Grand Lodge to enter into a contract of this sort.
- The cell company will try to give the Lodge a rent increase every five years. The Lodge must insist that the rent be increased on an annual basis. It is suggested that the increase be equal to the rise in the Consumer Price Index but no less than 3%.
- In the event of termination by the cell company, it should be required under the terms of the contract that the cell company pay the Lodge six (6) months worth of rent as a termination fee.
- The Lodge is to receive full indemnification (wording will be provided by the Grand Lodge Insurance Department). Under no circumstances is a so-called mutual indemnification or mutual subrogation to be signed by the Lodge.
- In every case, the cell company is to provide the Lodge with a certificate of insurance naming the Lodge as additional insured in the amount of three (3) to five (5) million dollars (the Insurance Department can provide the needed wording). The Lodge will not name the cell company as additional insured under the Master Liability Program.



## USE OF LODGE FACILITIES BY OTHERS

All Lodges should follow the procedure indicated on Pages 10-11 of the Liability Booklet. The user must sign the indemnity agreement and, in most cases, must provide evidence that the user has liability insurance and has named the Lodge as additional insured.



## RESTAURANT SAFETY (KITCHEN HOODS)

All Lodges should have hoods with fire extinguishing systems over cooking areas. Make sure that your Lodge's fire protection system is up to date.

- Vegetable cooking oil, which helps lower the fat and cholesterol content of food also burns at a higher temperature than animal fats. These fires are more difficult to extinguish.
- Energy efficient cooking appliances are now used extensively in restaurants. Highly insulated fryers help reduce fuel consumption and cooking times. This also keeps cooking oils and appliances hotter for a longer period of time, which in turn makes extinguishment of fires more difficult. In the past, fire suppression systems were not tested with these specific hazards in mind, so new test protocols had to be developed. The Underwriter's Laboratories adopted a new standard UL 300 Fire Extinguishing System for protection in restaurant cooking areas. All manufacturers selling fire suppression systems after November 1998 had to comply with the new standards. Testing by fire equipment manufacturers showed that, while dry chemical systems could knock down the UL 300 test fires, the fires would restart and continue to burn due to lack of cooling. To achieve the required cooling effect, the design of a fire suppression systems was altered to increase the amount of wet chemical extinguishing agent used. This along with an increased number of appliance nozzles, was effective in completely extinguishing the UL 300 test fires. Appliances affected were fryers, griddles, ranges, char-broilers and woks.

We are told that manufacturers have ceased making replacement parts for the old dry chemical systems. Also, in many areas, non-UL 300 systems can't be installed in commercial cooking operations. This is a NFPA regulation and not found to be a state law. Every Lodge should review its individual circumstances and plan to make appropriate changes.

## SECURITY

Many Lodges have installed cameras both in the Lodge and in outside areas for security reasons and to establish fact for any allegations of activities both in and outside the Lodge. These installations are relatively inexpensive and can act as a deterrent for crime or fidelity claims as well as provide assistance with regards to some liability occurrences.

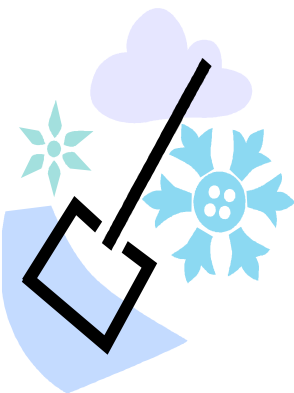
It is also strongly recommended that all parking and walking areas outside the Lodge be equipped with high intensity lighting systems. Such systems can be rented at a reasonable fee that can be partially offset by the electrical savings on conventional lights presently in place. Such lighting systems eliminate any slip and fall claims that allege poor lighting.

## BINGO

The bingo player represents the largest single type of claimant. Please keep this in mind when enforcing safety efforts.

## MAJOR OBJECTIVE – PROPER SERVICE OF ALCOHOL

The prime objective of every Lodge, above all others, is to never serve anyone who is even approaching intoxication. This must be done. Any employee or volunteer that does not fully believe this and follow this in all cases should be fired and never be allowed to serve alcohol again. There should be no exception for VIP's.



# Happy Valentine's Day

## CONDENSED LIST OF "INFORMATION" TOPICS 2008

1. State Meeting: Don't serve those approaching intoxication. Fire safety is a necessity. We are self-insured and use the "Accident Prevention Manual" and the "Liability Booklet".
2. Automobiles, Trucks and Buses. The Lodges should never own vehicles because they can't get enough insurance or the proper insurance.
3. Defibrillators: Lodges should not obtain such equipment because there is no assurance of training and users may not be covered by the Lodge's insurance.
4. Lodge Culture Regarding Drinking: Every Lodge should review the possibility that they have problem drinkers. An intervention should be considered.
5. Leasing Portions of the Lodge: Refer to the "Accident Prevention Manual" and "Liability Booklet" (Pages 10-11) for directions on lease review. The Lessee should indemnify the Lodge.
6. Extinguishers: It is necessary to have the proper types of fire extinguishers that have been properly maintained.
7. Lodge Inspections: Refer to the "Accident Prevention Manual" for a varied number of inspection forms for all Lodge needs.
8. Knives: Too many volunteers are cutting themselves.
9. Bar Open to the Public: The Lodge's liquor license and insurance coverage is in jeopardy if the closed door policy is not observed.
10. Workers' Compensation: Each Lodge should have coverage, even if it has no employees because a claim might be made and such a policy will defend the Lodge. The Self-Insured Master Liability Program will not cover or defend such cases. Several Lodges have gone bankrupt because its management failed to obtain such coverage.
11. Self-Insured Property Plus: This should not be used as a maintenance plan. Larger deductibles are recommended to reduce premiums and avoid the high cost of small claims.
12. Liability Claim Forms: Read instructions and fill all spaces on the claim form.
13. Illegal Gambling: Such activity is prohibited and, besides governmental sanctions, the Lodge could lose its liquor license and the Lodge's Charter.
14. Winter: Remove ice and snow and document the removal.
15. Volunteers: Make sure that volunteers are able to perform a job for the Lodge and not just willing to do it.
16. Races: These are not allowed or covered (golf carts, snow mobiles, lawn mowers, etc.).
17. Evacuation Plan: Lodge should have one. See the "Accident Prevention Manual".
18. Evidence of Insurance: The "Liability Booklet" in every Lodge depicts liability coverage for Lodges. Certificates can be issued if there is a real reason for a party to have it. Naming others on such certificates is done only on a LIMITED BASIS.
19. Local Lodge Accident Prevention Managers: Every Lodge must have an accident prevention manager (Statute 12.070). Each accident prevention manager must act to accomplish an elimination of loss potential.
20. Employee/Member Theft: Each Lodge should follow the simple principles of Accounting 101 (two check signatures, separate payment approval from check issuance, have regular audits to be done by the Lodge Finance Committee). Only a foolish Lodge lets one person control incoming and outgoing payments. In the area of legal gambling, more substantial audits, reviews and surveillance should be conducted.

*(continued on next page)*



# President's Day



*(Continued from previous page)*

21. Instructions for New Employees: Review the "Accident Prevention Manual".
22. Stages, Platforms and Higher Levels: Many claims involve such areas. Place warning signs, have railings and eliminate or change such hazards.
23. Diving Boards: No Lodge should have one. It is a dangerous instrument. Any management that allows a diving board is detrimental to the Order.
24. State Major Projects: No coverage is provided under the Master Liability Program. Separate insurance must be obtained by the State.
25. Facility Capacity: Make sure that all fire laws and capacity requirements are complied with when the Lodge has a large group in attendance.
26. Parking: Lodges should post signs that read "Park at your own risk". For RV trailers, Lodges should require owners to indemnify the Lodge and waive any right of subrogation under any insurance policy the owner has.
27. Bookkeeping/Record Keeping: Each Lodge should keep records and proper books. Be aware of past transactions and the legal status of the Lodge entity.
28. Contracts/Leases: Don't just sign everything presented. Have such contracts reviewed by an attorney or at least by someone familiar with contracts. Do not indemnify anyone unless there is a proper reason.
29. Use of Lodge facilities: Refer to the "Liability Booklet" (Pages 10-11) and the "Accident Prevention Manual". Too many Lodges only state the date of use and the price. Lodges can and should do better than that to protect the Lodge and the Order.
30. Fund Raising/Dangerous Events: See the Appendix of the "Accident Prevention Manual". Use common sense in any fund-raising activity. Don't put the Order in jeopardy.
31. Money in the Bank: Put money in a bank account, don't let it accumulate at the Lodge.
32. Microwave Towers/Antennas: If a Lodge is offered a contract with payment to erect such items, don't immediately sign it. The Lodge can get much more money and the terms will not jeopardize the Lodge. Contact the Grand Lodge Insurance Department for more information. Never indemnify the offering company.
33. Dance Floors: Install non-skid floors if possible. If it is not available, do not wax the floors. Also, do not allow anyone else to apply wax to the dance floor.
34. Bingo: A large portion of slip and fall cases arise from non-member bingo participants. Protect the Lodge by preparing for this accident prone group. Also see the "Accident Prevention Manual".

## **RESPONSIBILITY OF LODGE OFFICERS TO MAINTAIN LODGE BUILDINGS**

The Self-Insured Property Plus Program is finding a few Lodge managers who are derelict in following their fiduciary duty to take care of the Lodge property. Claims are being made that are generated out of no more than blatant neglect of minor and also major maintenance and repair. Since this is a self-insured Program, all Lodges suffer from the neglect of a few. These neglectful Lodges would not have coverage on a broad basis

provided by the Self-Insurance Program if they were insured from an outside independent source but, even more importantly, all of them would be canceled or non-renewed if the Lodge were determined to be neglectful or had even a small claim demonstrating derelict maintenance or repair.

If there are repairs needed, the membership should be told that repairs must be done. If a Lodge can not afford to do the required repairs or can not obtain financing to accomplish such repairs, the Lodge should maybe consider whether it should continue to do business at that location.

