

# Understanding Town Insurance



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Any coverages and endorsements discussed in the following presentation are related to Rural Mutual Insurance Company's products only.



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# Types of Insurance Coverage

- Auto
- Property
- Liability
  - General Liability for employees, EMS, etc.
  - Law Enforcement
  - Public Officials
    - Insurance for “wrongful acts” provided claim is made during the policy period.
      - Claims made vs. occurrence policies.
    - Includes employment practices injury
- Worker’s Compensation

# Contract Negotiations

- The town is the “client”: you hold the money
- Review the contract
  - Indemnification language
  - Who is covering what?
- Refuse to accept boilerplate language
- Consult your municipal attorney

# Certificates of Insurance

- Provides evidence of insurance to a third party at their request
- Not a substitute for the actual policy
- Contact your insurance agent
- Different from being named as an “additional insured”

# Public Official Bond vs. Public Official Liability

- Public Official's Bond:
  - Guarantees the honesty and faithful performance of a public official's duties, including the honest account of all money entrusted to the official according to the law
  - Stays in place throughout the entire term of office
  - Required for town clerk, town treasurer, deputy town clerk, deputy town treasurer, elected assessors and constables per Wis. Stat. 60.31(2)

# Public Official Bond vs. Public Official Liability

- Public Officials Liability

- Provides coverage where the township is liable to pay for damages due to a wrongful act
- Provides a sub-limit of coverage for defense of any non-monetary suit or defense of any suit alleging improper collection or assessment of taxes
- Includes coverage for employment practices injury or employment benefits liability coverage
- Provided on a claims-made basis. This means the policy will respond to a claim that is made during the policy period regardless of when the wrongful act occurred. This is different from occurrence based coverages, where the injury or damage has to occur during the policy period in order for coverage to apply.



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# Challenges affecting a bond

- Surety companies pull personal credit history as part of the underwriting review process for tax collector bonds.
- They also pull credit history for public official bonds over a certain amount, usually \$100,000 or more however this varies by surety company.
- A bankruptcy or poor credit history can leave the individual with an inability to be bonded.



# Challenges affecting a bond

- For larger bonds (over \$150,000) surety companies may ask for additional information on the internal controls the town has in place. Some questions they may ask are:
  - Will the applicant sign checks?
  - Are countersignatures required on checks?
  - Are bank accounts reconciled by someone not authorized to deposit or withdrawal from accounts?
  - Are regular audits conducted and by whom?
  - Has the official ever been discharged from any employment, and if yes, why?
- Depending on the situation and bond amount that is being requested, if there is a lack of internal controls or separation of duties, it may deter the surety company from writing the bond.



# Tax Treasurer Bond

- The “municipal treasurer’s bond” or tax collector bond is required by Wis. Stat. 70.67(1).
- The bond is “conditioned for faithful performance of the duties of the office and that the treasurer will account for an pay over according to law all taxes of any kind which are received and which are required to be paid to the county treasurer”.
- Town has the option of waiving the tax collector bond by adopting an ordinance according to Wis. Stat. 70.67(2) which would make the town responsible to pay, in case the treasurer fails to do so, all taxes required by law to be paid to the county treasurer.

# Bond vs. Liability Insurance

- Bond language references “faithful performance of duties”
- Liability insurance exclusions:
  - Expected or Intended Injury
  - Based upon insured gaining profit or advantage to which they were not legally entitled
  - Brought about by fraud or dishonesty
  - For claims arising out of insured acting in fiduciary capacity or as trustee

# Requirement of Workers' Compensation Insurance

- As a local governmental unit, townships are required to carry workers' compensation insurance



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# Common Workers' Comp Class Codes for Towns

- 9413 – Municipal Operations – County and Town
  - Including but not limited to: street and sewer cleaning and snow removal; parks and parkway-including tree pruning and spraying; garbage, ashes or refuse collection; garbage work, sewage disposal plants
- 8810 – Clerical Office Employees NOC
  - Applies to employees engaged exclusively in record keeping, correspondence, filing, telephone sales, data entry or word processing, and general office work. If such an employee has any other duty, the total payroll of that employee shall be assigned to the highest rated classification of operations to which the employee is exposed.

# Common Workers' Comp Class Codes for Towns

- 7520 – Waterworks Operation and Drivers
  - Includes store employees and meter readers
- 7704 – Firefighters and Drivers – Non-Volunteer
- 7709 – Fire Department – Volunteer
- 7720 – Police Officers and Drivers
- 9920 – Cemetery Operation and Drivers
- 9410 – Sanitary Districts

# Independent Contractors and the Nine-Point Test

- If the nine-point test is not met, the person is then considered an employee of the public entity.
  - Any on-the-job injury to that person would be paid for under the town's workers' compensation policy
  - Any payroll for that person would be included on the town's annual audit

# Workers' Compensation Audit

- The purpose of an annual audit is to adjust payroll figures to what was actually paid this year.
- At the beginning of a policy period, all figures are estimated figures.
- Audit Process:
  - Initial request for audit information is mailed upon expiration of the policy
  - Follow up mailing sent 4 weeks after expiration if information was not received
  - 3<sup>rd</sup>/final request sent after 2 additional weeks if information was not received
  - We have a 90-day standard to underwrite and process the audit after receipt of the requested information



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# Workers' Compensation Audit

- Items needed to complete the audit:
  - Completed audit worksheet that was mailed upon policy expiration
  - Quarterly 941's
  - Subcontractor information (certificate of insurance or nine-point test)
  - Annual financial report
  - A payroll summary is also very helpful.

# Cyber Liability Insurance

- Provides first and third-party liability coverage for cyber-related claims
  - First Party Coverage: Pays any costs or expenses for responding to investigations, notification expenses, monitoring and data restoration.
  - Third Party Coverage: Pays for damages the insured is legally liable to pay due to an unintentional failure to safeguard personal information
  - RMIC rolled this coverage on to all policies in 2015 at a limit of \$10,000. Unless it was requested to be removed all RMIC town customers have this coverage. The limit can be increased up to \$100,000 subject to underwriting review.

# Cyber Liability Coverage

- What doesn't it cover?
  - Credit card fraud
  - Phishing scams: accidentally/voluntarily sending money to the wrong party
  - Damages where town is not legally liable
    - Credit monitoring for third party following breach
    - Attorney fees incurred by third party
- Safeguards
  - Oversight/Review/Multi-level approval of transactions
  - Only you initiate changes
  - Employee training on cyber-security

# Insurance Coverage for Town Events

- Parades, fireworks, baseball tournaments, etc.: You're covered
- Parks, playgrounds, libraries: You're covered
- Renting out facilities: You're covered
- Allowing renter to serve alcohol: You're covered
- Serving alcohol: You're covered (if 4 or fewer events per year)
- Events sponsored by fire departments are not covered unless specifically listed on the policy declarations

# Contracting for Services

- Make sure the contract addresses insurance/indemnification
  - Auto/liability insurance typically follows the vehicle, so if your truck is plowing a street for another town, your insurance is likely primary.
  - Require service providers to have insurance
- Insurance Amounts
  - How much is enough?
    - You can't predict the future
    - Will always be a cost/benefit analysis

# Establishing ATV/UTV Routes

- 2017 Wisconsin Act 87
  - Allows municipalities to authorize the operation of ATVs/UTVs on roads within their boundaries with a posted speed limit of 35mph or less:
    - “A . . . town may enact an ordinance to authorize the operation of all-terrain vehicles and utility terrain vehicles on a highway that is not part of the national system of interstate and defense highways, that has a speed limit of 35 miles per hour or less, and that is located within the territorial boundaries of the . . . town regardless of whether the . . . town has jurisdiction over the highway.” Wis. Stat. 23.33(11)(am)4.
      - Requirements: 1) highway cannot be an interstate; 2) speed limit must be 35 mph or less; and 3) highway might be located within the town.
- Covered under RMIC’s policy for injuries sustained on highways where this is enacted, even if enacted incorrectly.
- Municipal immunity will apply if enacted correctly.



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