



SOLUTIONS
PARTNERSHIP
LEADERSHIP

Shared Use Agreement Resource Guide

2015



HiP CUYAHOGA
Health Improvement Partnership

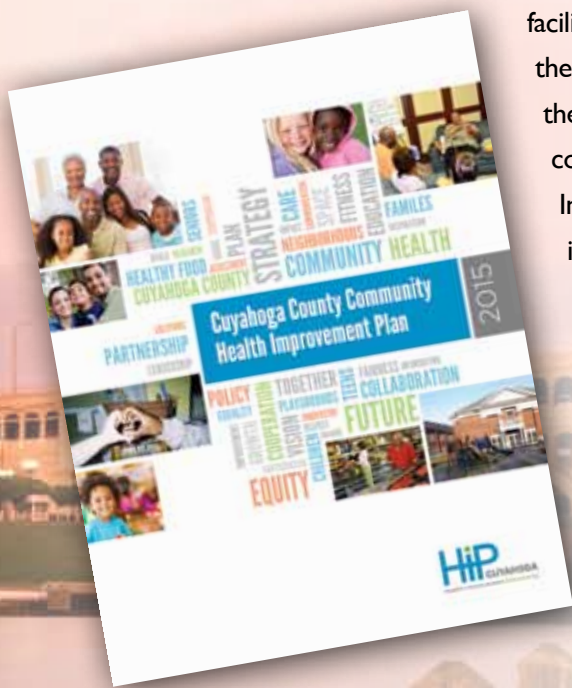


Communities, such as those within Cuyahoga County, are looking at opportunities to develop partnerships with schools, faith-based organizations, and other entities to use their property to promote physical activity. These properties can be a valuable resource for the community that will allow for activities before, during, and after school hours, as well as on weekends.

Health Improvement Partnership-Cuyahoga (HIP-Cuyahoga) is building opportunities for everyone in Cuyahoga County to have a fair chance to be healthy.

Being physically active is important for both individual and public health. The widespread issue of overweight and obese individuals is driven, in part, by unhealthy eating habits and lack of physical activity. In order for people to be physically active, they must have access to safe, affordable, and convenient facilities for recreational activities. Since many communities do not have these facilities readily available, public health is focusing on and utilizing their resources to increase community access to safe, affordable, and convenient places to be physically active.

In Cuyahoga County, there is an unfair burden of poor health in low-income, under-resourced communities, specifically in communities of color, youth, and older adults.

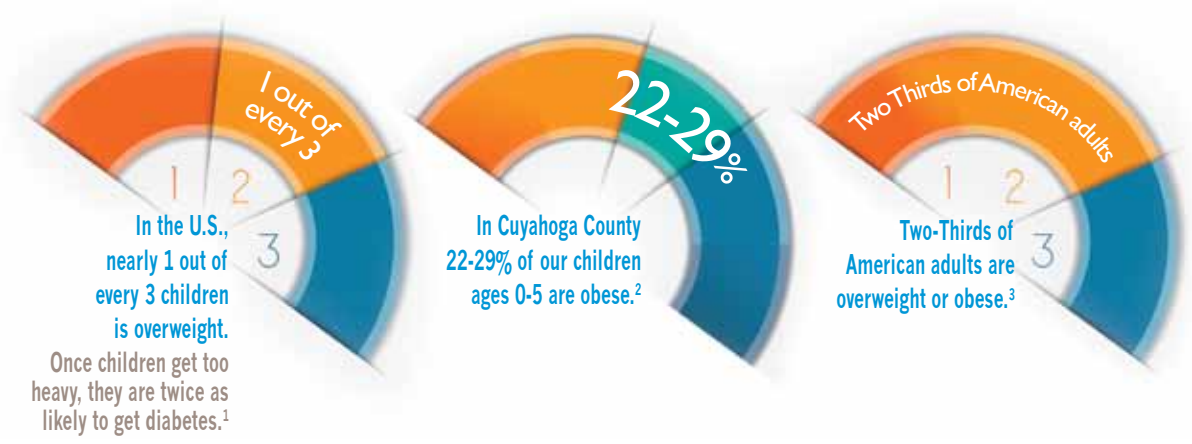


In Cuyahoga County, three times as many African-American babies die as white babies.

Depending on where people live, there is up to a 20-year difference in Life Expectancy in Cuyahoga County.

City of Cleveland and inner-ring suburbs have the lowest life expectancies.

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PREVENTING AND TREATING CHILDHOOD DIABETES

CHILDREN NEED AT LEAST ONE HOUR OF PHYSICAL ACTIVITY A DAY. STUDIES SHOW THAT EXERCISE HAS A DRAMATIC EFFECT ON TREATING AND PREVENTING DIABETES.

Healthier Together Providing Safe Places to Play

Making healthy choices and raising healthy families requires more than individual effort. Health is shaped by where we live, who we know, and how much money we have. Limited choices and lack of access to public facilities make it hard to get the exercise we need to be healthy.

We need safe places to play.

A good place to start is to use what we already have in our communities: schools, faith-based organizations, public buildings, playgrounds and parks, as well as private facilities. Yet these places are often closed in the evenings and on weekends.

Facilities are locked because of concern about costs, vandalism, security, maintenance, contract issues, and liability in the event of injury. We all need to keep people and property safe.

Recognizing the community benefits of using public resources, the Ohio General Assembly passed legislation making it easier for school districts to open their facilities to community use.

To make use of community resources we need to agree about how to do it. Our agreements are called shared use and they range from simple to very complex. They require a lot of thought, effort, and cooperation and differ depending on the range of issues that are being addressed.

This Resource Guide shows us how to make agreements that work. It's a step-by-step guide to creating agreements that unlock the doors and gates to safe places to play.

About This Guide

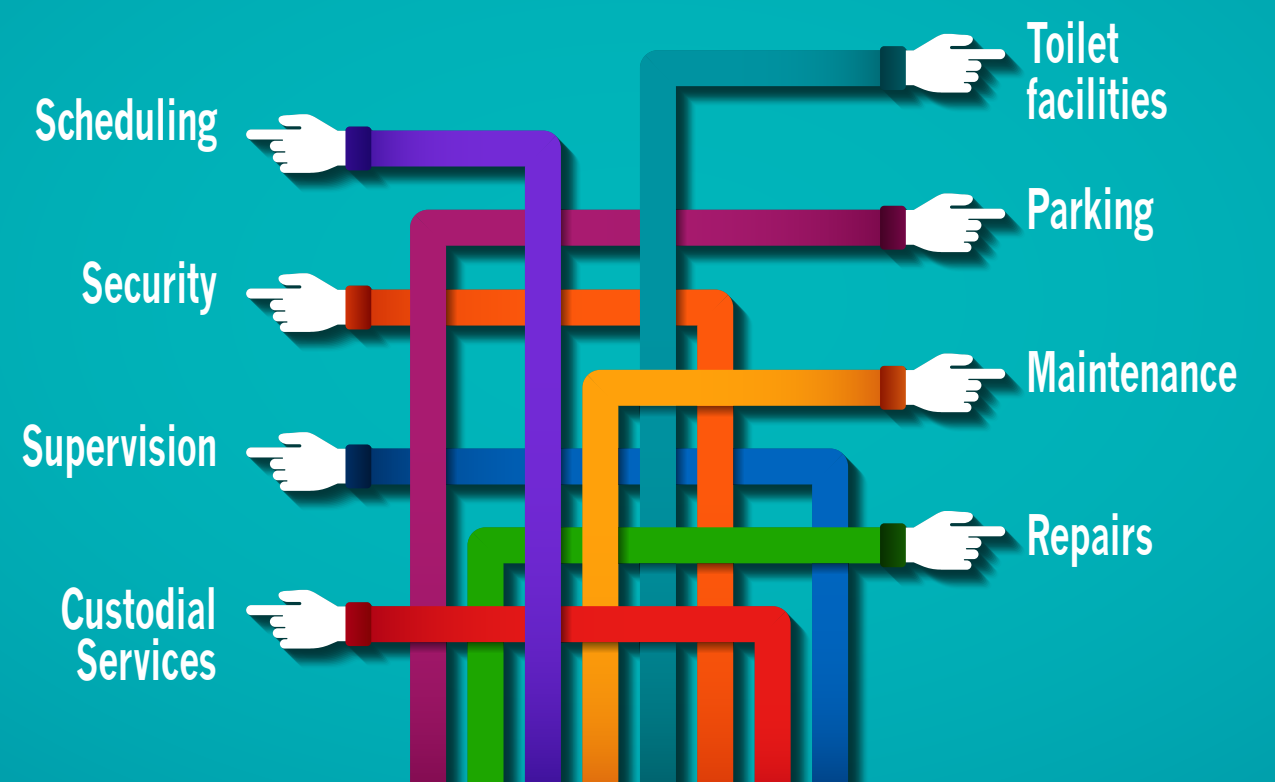
Developing and nurturing shared use agreements creates a win-win for our entire community. This Resource Guide breaks down the elements of a strong shared use agreement and provides information about how to overcome potential roadblocks and mishaps.

Keep in mind that although many examples cite use of schools, shared use agreements can be used for other community assets, such as libraries, museums and community gardens.

Although there is no single method for developing an agreement, this guide provides definitions, checklists, templates and suggestions. Use it to help everyone involved agree on who will be responsible (for costs, staffing, maintenance, and so on), and how it will be paid for.



WHO'S TAKING CARE OF:



Joint Use

Open Use

Community
Use

Public
Access

Shared Use may also
be called Joint Use, Open Use,
Community Use, or Public Access.

House Bill 290 - The Ohio General Assembly has created legislation to encourage and legally protect schools that develop shared use agreements. House Bill 290 allows use of school district premises by members of the public and for immunity from civil liability for a school district for permitting use by the public.

Effective shared use agreements happen when:

- Pooling resources benefits all partners
- Accessing resources that would not otherwise be available
- Establishing the agreement outweighs the challenges

What Are Shared Use Agreements?

Shared use agreements offer ways for schools, faith-based organizations, libraries, and others to open their facilities to community use. A shared use agreement refers to a written agreement between entities setting forth the terms and conditions for sharing the use of the facilities. A shared use agreement can allow community access to property by allowing the partners to share the costs and risks associated with opening the property for after hours use.

These agreements can cover everything from informal public use to organized after hours and weekend athletic activities for adults and youth.

Four Types of Shared Use Agreements:

- #1 Unlocking the Gates:** Allowing public access to outdoor facilities in schools or institutions during non-working hours.
- #2 Indoor and Outdoor Access:** Allowing public access during non-working hours.
- #3 Nonprofit Partnerships:** Allowing third-party organizations such as YMCA or Boys and Girls Clubs to use indoor or outdoor facilities to operate programs.
- #4 Reciprocal Access:** Allowing reciprocal access to district and city facilities.

Representatives from business, non-profits, faith communities, schools, and residents work together to determine which type of agreement will best meet the needs of all involved. Keep in mind that more than one type of agreement may work best.



Who Is Involved and What They Can Do?

Everyone can play a part in making these agreements.

Community Groups:

- Identify opportunities in the community.
- Start physical activity programs for members and residents (e.g., using tracks, gyms or other facilities for walking).

Community Residents:

- Bring your ideas for ways to get involved.
- Participate and bring a friend.
- Tell local leaders how much it matters.

Parents:

- Encourage School Boards and other organizations to implement shared use agreements.
- Bring your family to the facilities to play and be active.

Parent Teacher Associations:

- Provide assistance with programming made possible by shared use agreements.
- Promote shared use agreements (e.g., by writing letters of support to the local Board of Education).

Principals and School Administrators:

- Create community partnerships.
- Allow access to school facilities.
- Engage the local Board of Education to encourage more schools to open their facilities.

Local Business Boards and Non-profit Boards:

- Approve the concept of the agreement.
- Help partners decide roles and responsibilities.
- Encourage employees and members to participate.

School and Community Health Advisory Committees:

- Assess the needs of the community.
- Identify resources to support shared use agreements.
- Approach Boards about creating shared use agreements.

Parks and Recreation Departments:

- Work with schools and non-profits to develop shared use agreements.
- Share facilities.

Local Health Departments:

- Promote open facilities to community members.
- Evaluate the effectiveness of shared use agreements.
- Assist in developing partnerships.
- Work together to secure grants to enhance the shared use agreements with additional programs or resources.



When to Consider Shared Use Agreements

Shared use agreements can be put into place at anytime, in any community. Using existing structures and resources can be a cost- and time-saving strategy. In addition, consider shared use agreement when new schools or public facilities are being planned or updated.



EVERYONE BENEFITS



NOT ONLY DO COMMUNITY ORGANIZATIONS AND RESIDENTS BENEFIT FROM ESTABLISHING SHARED USE AGREEMENTS TO USE RECREATIONAL PROPERTY, BUT THE SCHOOLS AND INSTITUTIONS PROVIDING ACCESS BENEFIT AS WELL. THE WHOLE NEIGHBORHOOD THRIVES.

Residents:

- Enjoy more places to play and more things to do for families and individuals.
- Get active, get healthy.
- Exercise daily to prevent and control diseases.

Schools:

- Thrive as healthier students are better students, who lift performance scores.
- Gain opportunities for students to learn, play and grow, by extending the physical education programs offered during the school day.
- Reduce costs by sharing maintenance expenses with community partners.
- Build closer relationships in your communities.
- Reduce vandalism because more people are present on the property, and community members start taking responsibility for what becomes a communal resource.

Faith-based Organizations:

- Healthier members are happier members.
- Reduce costs by sharing maintenance expenses with community partners.
- Build closer relationships in your communities.
- Reduce vandalism because more people are present on the property, and community members start taking responsibility for what becomes a communal resource.

Businesses:

- Employees thrive when they know they are making a difference.
- Build closer relationships with local leaders.
- Lift the profile of your business in the community.



Communities:

- Energize what's available to meet the needs of the whole community.
- Create a shared sense of community ownership and engagement.
- Promote partnerships across community groups to work together.

WHEN WE WORK TOGETHER,
WE CREATE A MORE CARING COMMUNITY



PROTOCOLS

A SET OF RULES AND PROCEDURES FOR INTERACTING.
PROTOCOLS DEFINE WHO IS RESPONSIBLE, WHAT TO DO,
HOW TO DO IT, AND WHEN TO DO IT.



Essential To-Dos of Starting a Shared Use Agreement:

- Develop operational plans that outline partners' responsibilities
- Establish positive, effective communication among partners
- Identify new sources of funding, and determine how costs will be shared
- Negotiate liability
- Build support from the community and local organizations
- Build support from local political leaders

Getting Started

Starting a new program and building new partnerships can feel overwhelming. Knowing the essentials of what is involved helps us plan effectively. Each item is necessary and helps create the opportunity for success.

And success feels good!



This Checklist makes
sure all important steps
are covered.

Checklist:

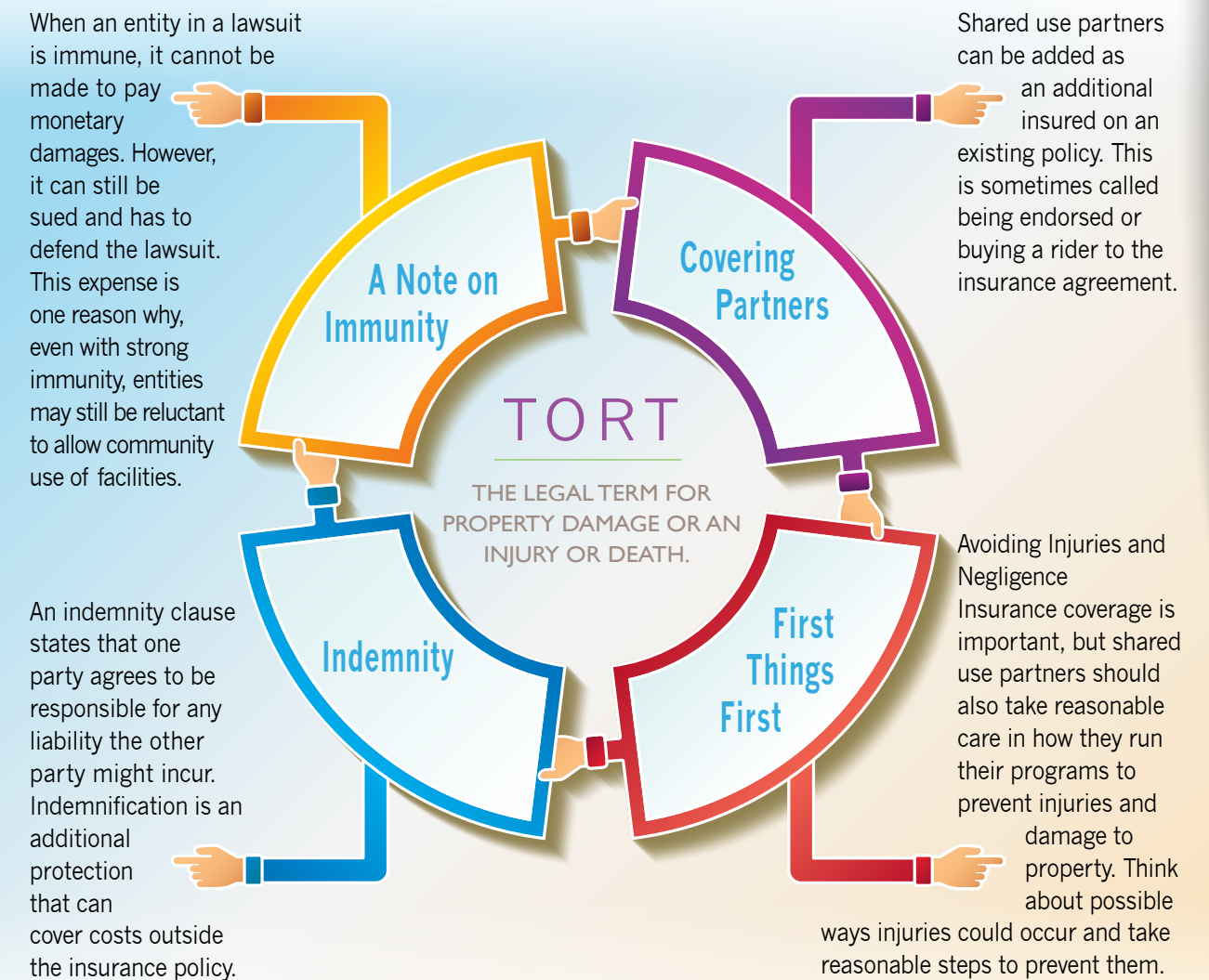
- ☐ Identify community and partner needs
- ☐ Identify potential properties and partner organizations
- ☐ Build relationships with the appropriate decision makers
- ☐ Make sure the concept is approved
- ☐ Select negotiators
- ☐ Agree on the scope of the shared use
- ☐ Inspect proposed facilities
- ☐ Identify and reach agreement on issues involving use
- ☐ Work with risk management and legal counsel throughout the process of negotiating and drafting the agreement
- ☐ Identify and resolve employment issues
- ☐ Develop a communication protocol
- ☐ Identify and reach agreement on issues involving third-party use
- ☐ Agree on improvements and improvement protocol
- ☐ Agree on how to determine and allocate costs
- ☐ Define the term of the agreement, methods of evaluation, and the renewal process
- ☐ Identify training needs and develop a training plan
- ☐ Develop exhibits to the agreement
- ☐ Receive formal approval

How to Address Liability Concerns

Liability fears can effect shared use partnerships. Some partners resist opening their property after hours because of concerns about the legal risks associated with injury or property damage.

The good news? These risks are often exaggerated, and there are many protections available to organizations to help limit and manage the risks they do face.

Keep in mind that any enterprise faces liability risks all day long: there is always potential for property damage or injury to employees, students, staff, or members. Organizations already deal with these risks, and the measures they take to protect themselves during the school or work day, particularly in terms of risk prevention, help them after hours as well.





Key Steps to Take:

Gather information on the benefits shared use can bring to the community. Assess community and school/district needs. Anticipate concerns and be prepared with answers and suggestions.

Understand the partner's position.

If there is pushback from the partner, try to identify the reason.

If the partner is comfortable allowing third parties - such as nonprofits - to run recreational programs on their grounds but is uncomfortable unlocking the gates to the general public, what is the concern with direct public access? If it's destruction of property, is the partner open to a pilot program? A pilot program designed to allay concerns about vandalism might work like this:

- Consult a property checklist when the gates are opened and when they're locked.
- Inventory the property to make sure no damage has occurred.
- Document the inspection and sign the documentation.

If the concern is liability, find out the underlying reasons. Has the organization been sued in the past? If so, what changes have been made? If not, what is the basis for concern? If the organization is not forthcoming with this information, try to find a champion in the community – an employee, a board member, a local leader – and have that person get this information on your behalf.

Recommend solutions to address concerns.

Does the organization's insurance cover recreational activity after hours? If not, how much would it cost to expand coverage to do so? What if another party is willing to pay that cost? What if another party is willing to take on responsibility for liability? What if another party is willing to indemnify the organization in the event of a lawsuit?



Speak with the organization's attorney to see whether there are legal protections that limit their liability exposure.

Ask about these legal rules that limit property owners liability exposure:

Governmental immunity: Limits the extent to which public agencies – including school districts, public officials, and sometimes employees – can be found liable for harm they cause. Figuring out exactly when governmental immunity applies can be complicated. Contact the organization's attorney to find out if they are protected in a given situation.

Recreational user statute: Ohio limits the liability of landowners who open their land for recreational use. The recreational user statute provides property owners with a possible defense against liability. Under the statute and judicial requirements, school districts need to allow public access of their grounds without charge in order to be eligible for the limited liability.

Limits on damages: Ohio has general limits on damages in tort claims, but the status of the law is somewhat uncertain. Talk with the organization's risk manager and attorney to better understand limits on damages as they apply to your situation.



Insurance, indemnity agreements, and risk management practices are tools that shared use partners can use to manage risks and costs.



Covering the Costs

Fully using a single facility is more cost efficient than building and maintaining multiple structures for limited use. But the costs of maintaining and operating a facility go up with extended hours and use. To help cover the costs, consider these funding sources:

Federal and state grants

Development driven funding sources

Fee-based revenues

Additional funding sources (public and private)

Renewable, dedicated revenue sources (e.g., special taxes and assessments)

Of these five types, the renewable, dedicated revenue sources are the most reliable and comprehensive. While the others are important, they are usually not enough on their own to fully cover funding needs.

There are three types of dedicated funding sources that can cover the costs of ongoing maintenance and repair for shared use facilities:

- Special taxes
- Special assessment districts (including benefit assessment)
- Bonds

Special taxes and assessments are “pay-as-you-go” funding sources, while bonds are deferred, set up to pay at a later date.

A special tax (e.g., a parcel or property tax) is decided by all registered voters in the proposed service areas, either through a one-day election or through mailed ballot, and it requires two-thirds voter support.

Special assessment districts are created by local governments or by voter initiative. They are governmental entities that manage resources within a defined set of boundaries, whose geographic boundaries can range from individual cities to several counties. As self-financing legal entities, they have the ability to raise a predictable stream of money (such as taxes, user fees, or bonds) directly from the people who benefit from the services.

A benefit assessment is created by a vote of property owners in a proposed service area. The voters agree to tax their properties in order to raise revenues for infrastructure and services that will provide them with a “special benefit” they would not otherwise receive. Developers are usually the primary property owners – so local agencies can determine the rate of assessment needed to fund the annual maintenance and improvement of local parks, and they can require developer approval of the assessment as a condition of their project approval.

Bonds are a renewable, dedicated revenue source that can be used to cover the costs of ongoing maintenance for shared use facilities. Most bond issues require a two-thirds vote of the electorate and are therefore not widely used for this type of funding.

Additional Funding Sources: Public Sources

City general funds

Grants and contributions from city general funds can finance capital improvements as well as maintenance and operational costs incurred through shared use.

Sale or lease of surplus lands

The sale or lease of under utilized city-owned land or other facilities can be an important source of revenue. The money the city earns from selling the property can be used to acquire new parkland or recreation facilities, or to develop new community service facilities. Revenues from long-term leases can go toward maintenance or underwrite programs. Surplus parcels also may provide opportunities for trading land with other agencies that own land more suitable for recreation purposes.

Adopt-a-park programs

This type of program, in which businesses or community groups take responsibility for maintaining public property (often in return for public acknowledgment), could generate funds or volunteers to maintain city parks or recreational facilities.



Private Sources

Private foundation grants and nonprofit partnerships

Private foundations may award grants specifically for developing or improving public recreational space. Some cities have created their own nonprofit organizations through which such funding may be awarded. Local governments also can partner with local nonprofits to solicit funding from sources (e.g., private foundations, businesses, individuals) that don't typically award grants to city agencies. Cities can encourage private sponsorship by naming facilities after contributors, and they can organize fundraising concerts and other events through non-profit partners.

Corporate sponsorship of events

Corporate sponsors can bring in revenue in exchange for their involvement in local sports events, team sports, and various senior or youth activities.

Concessions (public/private partnerships)

Cities can generate income by contracting with a concessionaire to build and/or operate a facility on city owned land. The concession, in this case, could be the facility itself (rented out for a fee), or a facility that generates income by selling (healthy) food and beverages or renting out equipment on the premises.

User group contributions

Sports groups may finance the construction or maintenance of athletic fields if the city provides a nominal lease of land for a reasonable time span so the groups can capture the value of the improvements. This relieves the city of the costs involved, but it may preclude use by other groups' unless the lease specifies otherwise.

Volunteer labor

Certain programming and maintenance tasks can be handled by volunteers, potentially reducing costs.

BUILDING SUCCESSFUL RELATIONSHIPS

Check in regularly with partner leadership to understand scheduling needs.

Different types of employees may be represented by different bargaining units (possibly even different unions), so be sure all relevant units and unions are invited to your initial meeting.

Before there is trouble decide how to resolve disputes. Include your process as a part of your shared use agreement.

Define maintenance. Is it sweeping floors, locking doors and gates, and making sure soccer balls are inflated? Or, in the case of classroom use, does it include returning desks and chairs to a particular formation?

Include Unions

District staff members are often unionized, and unions should be involved throughout the process of negotiating shared use agreements. Issues such as salary, overtime pay, and funds for maintenance and operations can and should be

addressed in the negotiation process, especially when volunteers might handle some tasks during shared use hours that unionized labor normally performs. Make a plan for keeping unions informed, and stick to it.

Success is in the Details

Scheduling, Building Relationships, and Maintaining Facilities

So, we have worked out how to cover the costs and we've taken care of liability. Now, we have to take care of the day-to-day details that make it all possible. This is the tricky part. Our attention to these details is what makes the difference between success and disappointment.

Scheduling access to the facility

Having an agreement is no guarantee that we will have access to specific facilities at specific times. Find out who has the keys and make sure they know the details of your program.

Reliably getting through the gates or inside the doors requires a clear schedule and written statement of who will access which facility at what time and with what exceptions. The statement should clearly state when the general public will have access to outdoor facilities for non-programmed activities; and it should list the acceptable exceptions to these rules.

Make the statement as detailed as possible including listing of schedules, programs, and maps that show entrances and exits, security gates, and areas that are off-limits.

Building effective relationships with key personnel

Schedules are critical, but they can't unlock gates; people do. Getting support requires building strong relationships. Focus on developing these relationships from the very beginning. Specifically, include relationship-building steps in your plan. Invite staff members to attend meetings wherever and whenever possible. Once the shared use agreement is in place, have regular meetings with staff to keep everyone up-to-date and to evaluate how things are going.

Understanding responsibilities for maintenance and upkeep

Failing to properly care for the facilities can derail your shared use agreement. Be clear about who is responsible for making sure facilities are well cared for after hours. Be specific about what is meant by "clean condition and ready-for-use" and make sure participants understand.

Before any activity takes place, decide up front who will assume responsibility for maintenance and upkeep. Also, decide on reasonable time frames for repairs and maintenance and include this information in your agreement. By leaving nothing to chance and enforcing your maintenance protocols, the partner will find their facilities in the same condition they were left the previous day.



A Living Tool for Communication

Your shared use agreement becomes your best communication tool. It's a record of all your negotiations and mutual agreements. It contains all the solutions to the issues raised. It usually includes fee schedules, maps, detailed lists (contact information, who is allowed to have keys to the facility, equipment, etc.), methods of dispute resolution, and provisions for renegotiating the agreement. It is a living tool that should be referenced and updated as conditions evolve and change.



Don Slocum

Executive Director and founder of the Neighborhood Leadership Institute

Don R. Slocum is the Executive Director and founder of the Neighborhood Leadership Institute (NLI), a grassroots leadership development program aimed at giving stronger voice to community residents. For the past 20 years, Don has worked in several Cleveland neighborhoods bringing quality after-school and family engagement programs.

In an effort to reach community members in safe and convenient locations in close proximity to their homes, Don partnered with the Cleveland Municipal School District to use school buildings after hours for youth and family programs that encourage physical activity. Some of the programs that he offers are: walking, weight training, jazzercise, Zumba, line dancing, baseball, soccer, and even open swimming.

His program started 20 years ago in just three schools, now the NLI program is implemented in nine schools across Cleveland's east and west sides and serves 4,500 residents annually. Any Cleveland resident can take part in the programs. In an effort to eliminate any liability issues, Don secured insurance to cover his programs during the hours that he is using the school buildings. He also pays for after hour security so that residents feel safe when using the facility.

This partnership is a great success. Increasing opportunities for residents to engage in physical activity is a true win!



Delores Collins

Director and Founder of A Vision of Change Inc.

Teonices Smith-Havergne

Program Manager of A Vision of Change Inc.

In 1993 Delores Collins founded A Vision of Change Inc., a non-profit organization dedicated to empowering children and families who are living in undesirable situations.

For twenty-two years, AVOC has provided academic empowerment, intervention, and prevention services in communities throughout Cleveland. AVOC fulfills its mission by providing children and families with a framework that encourages healthy lifestyles, rebuilds unity, trust, responsibility, and communication in the family.

The goal of the organization is to be a part of the social movement to break the cycle of poverty, illiteracy, obesity, low academic achievement, teen drop out and youth imprisonment.

When the program was first developed, neighborhood organizations were apprehensive about participating in shared use agreements. To gain access, Delores had to first earn trust and prove herself within the community by building a positive track record and facing concerns head on.

Liability was the primary concern. She worked with host sites to understand their needs and to determine the best ways to minimize risks. Doors began to open.

Local churches and community centers invited Delores to offer her program in their facilities. Soon her program grew so large, that she had to move to larger facilities. Delores notes that some of the challenges of shared use is providing services around the time constraints of each facility versus the needs of her program. She and her staff also must carry loads of materials from site to site.

She is extremely grateful that her program was given a chance. By facilities giving her program a chance, she in turn, empowers children and families in need a chance.



NaKia Smith,

Childcare Director for the East End Neighborhood House, Cleveland, Ohio

Incorporated in 1911 as a settlement house for immigrants, the East End Neighborhood House continues to serve the surrounding community and is thriving. Nestled in the Buckeye-Woodland neighborhood, EENH supports thousands of residents with its daycare and after-school programs for children and services for the elderly.

A community gathering place, EENH provides residents with spaces for birthday parties, baby showers, conference, retreats, and more. The facility also houses a variety of exercise classes that are free and open to the public. Residents value the opportunity for physical activity, taking advantage of such programs as Zumba, tai chi, salsa dancing, martial arts, and boot camp.

NaKia explains that EENH is invested in its community health. "We promote active living programs via social media and flyers and we have had a pretty good turn out... So many new people have come to the center that it helps in spreading the word!" EENH also partners with an area Healthy Eating Active Living Initiative which creates more purposeful and intentional physical activity programming.

When asked what has been the biggest benefit to hosting physical activity programs, NaKia says, "Seeing residents actually commit to becoming healthier."



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Law & policy innovation for the common good.



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