

Community Trends®



LEGISLATIVE UPDATE

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One of the legislative and regulatory issues your Legislative Action Committee (LAC) has been addressing involves recent changes to regulations covering public recreational bathing in New Jersey. As you may know, the New Jersey Department of Health issued revised regulations in January of 2018 applicable to all public bathing facilities in the state.

While swimming pools in common interest communities (CICs) are generally considered a “private” amenity, it is important to know that the State of New Jersey continues to define a community pool serving more than two residential units as a public recreational bathing facility that must comply with the provisions set forth in the NJ State Sanitary Code Chapter IX (N.J.A.C. 8:26). The purpose of the code is to set safety and sanitary expectations for the swimming pools operating throughout the state in the interest of public health.

The amended regulations adopted last year caused some confusion and concern among those who live and work in CICs in New Jersey which have swimming pools as an association amenity. Much of the confusion stems from the fact that “private pools” owned and operated by CICs are considered “specially exempt”, permitting them to avoid some of the requirements of the state’s regulations if certain criteria are met (such as proper signage at the pool). There have been various informational publications printed over the past year addressing those concerns, including articles in the April 2018 and December 2018 issues of *Community Trends*® written by Beth Barnett and Ben Basch from American Pool Enterprises.

Legislation was introduced last year which addressed some, but not all, of the confusion and concerns generated by the 2018 amended pool regulations. Barbara Drummond, President of Prime Management Inc. who serves on your LAC, reports below on that bill which was enacted into law this past January. Please read on...

On January 31, 2019, Governor Murphy signed into law Assembly Bill 4191 which made some technical amendments

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to the New Jersey State Sanitary Code that covers Public Recreational Bathing Facilities. It outlines exceptions to the Department of Health regulations governing public recreational bathing facilities that went into effect on January 16, 2018.

One of the new law’s changes modifies the previous health inspection requirement to now allow pool operators the choice of whether they want to use the official 21-point checklist in lieu of a regular inspection by the local health department prior to opening the pool for the year or season.

It also clarifies the requirements for pools in existence prior to January 1, 2018 concerning the need to upgrade pool circulation system equipment. The clarification states

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that only pools undergoing other alterations/upgrades are also required to upgrade the circulation system equipment. It further states that those pools in which existing equipment is being replaced with like kind and quality do not count as an alteration that would require upgrading the circulation system.

Additionally, lifeguards are now permitted to perform administrative tasks such as checking pool passes and performing routine water testing, provided that the lifeguard can perform these tasks and tests without causing an imminent, significant risk to bather safety.

Specially exempt facilities such as pools at CICs who restrict their use to owners, members, or renters at the facility and their guests will now be able to keep that exemption even in cases where they have a functional diving board, water slide or similar recreational appurtenance.

Finally, the original Code amendment that went into effect

in January 2018 and a subsequent FAQ issued by the New Jersey Department of Health failed to fully address the issue of specially exempt facilities with pools over 2,000 square feet and the number of lifeguards required or not required under the exemption. As an example, if a facility took the exemption and subsequently used one lifeguard, it is unclear based on the amended Code and FAQ whether it is permissible and the Department has not been able to issue a definitive ruling. The technical amendments just signed into law did not address this issue, so the ambiguity remains. Associations that fall into this classification should consult with their legal counsel, insurance professionals and licensed pool operators to understand the risks, legal options and obligations under the revised Code.

Thanks to Barb for sharing this important and useful information just in time for pool season!

See you here next month...■