

Community Associations & COVID-19

FAQ



LIFTING STAY AT HOME ORDERS FREQUENTLY ASKED QUESTIONS

Q: How should community associations prepare for the lifting of state stay at home orders?

A: Associations need to evaluate three questions: 1. Can we open? 2. Should we open? 3. What is it going to look like when associations begin opening certain areas? There are going to need to be rules and regulations developed when re-opening certain areas? It is important to look at each of your state and local orders for guidelines for guidance when reopening.

Q: What regulations and guidelines should be considered when opening areas of your association that have been closed?

A: It is important to first look at the federal government and CDC guidelines. Then state guidelines and governor's orders need to be reviewed. Finally, local regulations need to be considered. If these are stricter than the governor's orders they need to be followed. It is also important to consistently review your community's governing documents for use requirements and restrictions. A state and local restriction may be more restrictive than a federal regulation, not less restrictive.

Q: If your state and local government have different standards and requirements for reopening facilities, which order should be followed?

A: It is ideal to follow the most restrictive order, so all requirements within each order are being met.

Q: What contracts should be reviewed when choosing to open certain facilities?

A: It is important for associations to review any current contracts with their attorney when creating a reopening plan.

Q: Is an association required to reopen certain common areas or amenities once your state's stay at home order has lifted?

A: A community association does not have to reopen common areas and amenities if their state has lifted their stay-at-home order. Residents are always subject to the most restrictive regulations. It is crucial for an association to review the federal government's reopening guideline to see if they can even meet the requirements if they decide to reopen. An association must remember there is no insurance coverage if a claim is filed against them if they choose to reopen. An association should look at their communities' specific circumstances when determining what common areas/amenities should reopen. This determination will vary between each type of amenity. A park may be safer to open than a gym initially when reviewing health department guidelines. It is important to review the reopening of each

common area/amenity with your credentialed professionals – managers, attorneys, insurance agents, etc.

Q: What should community association management company, business partner office, etc. consider when reopening their professional offices?

A: It is important to follow the CDC guidelines when reopening offices. Installing additional wash stations within the office may be considered, as well as requiring staff to wear masks within the office.

Q: Is the association responsible for enforcing CDC guidelines upon reopening amenities and common areas?

A: A community association is separate from a government entity. It is important for an association to review CDC guidelines when developing its new guidelines. An association needs to decide whether to implement new rules, update current rules, or follow CDC guidelines directly. It is crucial all rules implemented are able to be enforced. It is ideal to have support from a security company or staffing company to enforce these guidelines. While an association may consider using its board to enforce new rules, it is not advised. If a resident is disgruntled about having to abide by new policies, it is advised to call the authorities.

Q: Should associations require residents to sign waivers and place disclaimer language throughout common areas?

A: There are two answers to this question. Absolutely, have a waiver signed and post disclaimers. However, they are likely not enforceable. Even if you do have a waiver and a court enforces it, there is still the issue of minors who are unable to sign it. There are also third parties who may not have signed waivers who you could be responsible for.

Q: Do associations need to hire extra staff to implement new procedures? How should associations with limited budgets handle new procedures?

A: Boards have a duty to protect common features of a community. However, they do not have to protect individual health concerns of residents. Associations are responsible for making sure individuals act safely within the common elements and those common elements remain clean and sanitized. There is a difference between essential amenities and non-essential amenities.

Associations are obligated to protect and maintain essential amenities like elevator buttons, mailboxes, and entry doors. Some boards have considered creating a formal volunteer committee who may then be protected under the D&O policy. There are also financial concerns that vary between communities when it comes to these increased cleanings.

Pools, gyms, and clubhouse are nonessential amenities. It is within a boards discretion to decide if they can financially afford to reopen these amenities and if the community has the resources to do so.

Q: How should board meetings proceed once stay at home orders have lifted?

A: Board procedures vary by state laws. Online meetings may be able to continue if CDC health and safety guidelines and conditions cannot be met by an in-person meeting.

Q: How should an association proceed with annual meetings when a stay at home order has been lifted?

A: State laws and state orders should still be consulted when determining if an annual meeting should be held and if it should be held in person.

Q: What is the role of the board when a group of residents wants to open common areas and a group of residents wants to keep common areas closed?

A: It is important to consider the input of all residents. The board and manager should consider taking a poll of all association resident's thoughts on reopening specific common areas. Boards and managers should consult each other to determine their final decision.

Q: How often should an association communicate reopening updates with their residents?

A: Boards need to inform residents that although state and local governments are reopening certain places, a community association is still an independent governing body. An association should communicate what they are doing to protect the common areas of a community frequently. It is important to communicate with residents either daily or weekly depending on the size of your association and the number of common areas reopening with updated procedures. All communications need to be date-stamped with a tentative time frame for applicability. A disclaimer stating the communication may be is also recommended.

Q: What protocols should 55+ communities follow when reopening their amenities?

A: It is important for boards to convey the assumption of risk when reopening common areas. A board should inform residents of the safety precautions they are taking when reopening community areas. However, there is still personal risk involved when choosing to enter these areas when you are part of a high-risk demographic.

Q: Should board members be utilized to implement and enforce new regulations?

A: No. An association's trained professionals, including your community manager, should handle implementing and enforcing new regulations.

Q: How should association fitness centers be reopened when the stay at home order allows?

A: It is important to ensure CDC health and safety guidelines are considered when reopening fitness centers. The board and manager should review if a staff member needs to be on site to ensure the fitness centers are being cleaned. It is important to consider the cost of new procedures when reopening facilities.

Q: Can an association take the temperature of guests entering a community?

A: An association should consult with their attorney because this is extremely situational. It is important any procedure a community puts into place is reasonable. It is likely not reasonable to require homeowners to have their temperature guests, but it may be more reasonable to check the temperature of guests and service workers. It is important to consider how an procedure a community puts into place will be staffed.

Q: How should an association handle real estate sales during this time?

A: Many condominiums (high rise buildings) are not allowing in person showings this time. They are holding virtual showings. This may not be reasonable or necessary in a single-family homeowners association. Some communities are making owners pay for the cleaning expenses attached to their moving procedures.

Q: How should the board and manager approach reopening an association's beach?

A: It is important to look at each state's orders and the CDC guidelines before reopening beaches. Some states have reopened beaches for physical activity, walking, running, and paddle boarding, but residents are not allowed to sunbath on the beach. It is a difficult to enforce social distancing on a beach.

Industry Experts on COVID-19 Lifting Stay at Home Orders

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RESOURCES

Now is a good time to remind community association residents, board leaders, and managers of their [Rights & Responsibilities for Better Communities](#) and the [Community Association Civility Pledge](#).

View the latest COVID-19 resources and guidance from CAI by visiting www.caionline.org/coronavirus

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