

COMMUNITYMANAGER

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Rule Your Pool This Summer

Reviewing and updating pool guidelines is essential to mitigating liability and ensuring safety.

BY JENNIFER MILLER

When the board at Summerfield Estates in Poway, Calif., began revising its pool rules, the first thing they learned was that California has very specific signage regulations dictating everything from font size to where the signs are posted. But signs that met those specific requirements were hard to come by.

“Our existing signs had 3-inch letters, and none of the signs available online had (the required) 4-inch letters,” recalls Brad Phillips, secretary of the board of directors for Summerfield Estates. He eventually contacted the community’s pool maintenance contractor, who put him in touch with a local

pool supply store that was able to provide the correct signage.

If you haven’t reviewed your pool rules in a while, there’s no time like the present. “The longer that rules go between updates, the more work it is to update them and the more likely the process is to get drawn out,” advises Heather Hutchison, CMCA, AMS, PCAM, general manager of First Hill Plaza in Seattle. According to Hutchison, because the process can be time-consuming, every other year is probably ideal to review all rules, including those for the pool.

In fact, because pools are generally such an essential amenity—and a major

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area of liability concern—community managers and boards should be sure to give pool rules the attention they deserve. “If your board has a work plan or a strategic plan, make it part of that plan to look at the pool rules so that you know it will get done,” suggests Hutchison.

MITIGATING LIABILITY

There are two main issues when it comes to pool rules: liability and conduct.

“As associations are examining their pool rules, they can’t afford to lose focus. It’s not just about creating good conduct, they also have to mitigate the liabilities that come with having a pool,” cautions Jonathan Busa, vice president of business development and administration for Alliant Property Management, which oversees 160 properties in Southwest Florida. “The (association) first and foremost needs to ... protect itself from the liability that comes with a pool. You have a responsibility to all community members to ensure that the association is protected.”

When it comes to mitigating liability, the first step is understanding the local rules and regulations governing your facil-

ity. “Depending on your local code, you need to know whether your facility is treated as a public pool or a residential pool, and that designation will dictate what rules you are required to post by code or law,” explains Steve Getzoff, a partner at Lester Schwab Katz & Dwyer, who serves as outside general counsel to The Association of Pool & Spa Professionals.

She also recommends reaching out to your CAI chapter, which can likely connect you with people who have the experience you need.

Perhaps the best source is your community’s third-party pool maintenance contractor. A good pool maintenance and management company will be familiar with best practices, as well as local rules.

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A basic Google search is a good starting point to familiarizing yourself with the relevant codes—or to refresh your knowledge, since rules can change from year to year. But don’t stop there.

“I’m a big believer in reaching out directly to the entity that makes the rules,” says Hutchison. “In my experience, it’s challenging to find accurate information online. It seems like a lot of municipalities haven’t figured out how to make it easily accessible.”

According to Getzoff, one of the best ways to manage overall risk is to bring in a professional management company. “That company will know what code you’re subject to, if you need a lifeguard, what local rules to follow, under what conditions you must close the pool, etc.” In some instances, working with a professional pool management company also can partially shift the liability from the homeowners association to the management company.

Adults Only?

While it may not seem controversial on the surface, your community could get into hot water when establishing age-restricted swim times.

When the board of directors for the Champions’ Club at Jonathan’s Landing Homeowners Association in Magnolia, Del., began hearing from residents who wanted to establish an adults-only swim time at the 55-plus community’s only pool, it seemed like a good opportunity to update all the pool rules in advance of the summer swim season.

The board established an ad hoc committee to undertake the process of revising the rules. “We did our research,” explains Association President Judy Urick. “Our bylaws do not require us to get community input on issues like this, so we felt justified in moving forward.”

The committee also reached out to a sister community that had recently been through this process and got advice from the association’s legal counsel.

The committee made a unilateral decision to amend pool hours to include “adults-only” time, then requested community opinions on the specific times that residents preferred.

A survey was sent to community members asking for input on the swim times shortly before their board meeting—which was subsequently attended by more than 150 of the commu-

nity’s 400-plus residents. The majority of those in attendance were strongly opposed to the age-restricted swim times.

Based on the strong pushback, the board decided to hold off on implementation and allow residents to collect data throughout the summer, tracking exactly who was using the pool and when. The proposed rule would then be put to a vote at the fall board meeting. In the meantime, those residents in favor of the adults-only hours boycotted the pool all summer.

According to Urick (who was, and still is, in favor of the adult-only hours), the data clearly showed that there were rarely children using the pool in the mornings—one of the suggested adult-only times. But despite what the data showed, the majority of the community voted against the proposed adult-only hours.

“Unfortunately, not only was this divisive for our community, but it was so distracting that we were never able to review the other pool rules that needed updating,” says Urick. “We wanted to address necessary safety rules that were pushed to the wayside because of all this drama.”

NOT ALL RULES ARE CREATED EQUAL

Once you know which rules are legally mandated, the real work begins. As you've probably seen, the sky's the limit when it comes to pool rules—from safety cautions like no diving or running, to rules on horseplay and proper dress, to usage hours that vary by day and season. But don't dive into the deep end; pool rules can get out of hand.

"You have to balance the number of things you want to address with people's limited attention spans," advises Getzoff, who ascribes to the "less is more" school of thought. "If there are 30 different 'do's and don'ts, no one will read them all. And then the really important ones will get lost."

According to Getzoff, the "really important" pool rules include: no diving, no running, no alcohol, no glass, no swimming unless lifeguard is present (for pools that have a lifeguard on duty), never swim alone, and monitor your children at all times. If your pool facility includes a hot tub or spa, additional rules are necessary.

With the essential liability and safety rules addressed, many communities shift their focus to rules of conduct. These can include a dress code for adults and children, noise regulations, permitted activities, restricted use times, party policies, age restrictions, and more. Be sure that the conduct rules you implement are worded consistently with relevant local rules (for example, swim diapers for young children or minimum age restrictions).

"Don't make rules for the sake of making rules, and don't change them for the sake of changing them," cautions Hutchison. "You have to have a process, and it's important to seek feedback from owners, especially if you haven't reviewed your rules in years, or if the usage has changed, or some challenge has arisen."

Pool rules addressing conduct have the potential to create controversy within a community, so you should be prepared and have a plan to address any discord that may arise. (See "Adults Only?" sidebar on p. 2.) Community managers are particularly well-equipped to steer the conversation around potentially sensitive topics.

"The community manager has the benefit of bringing their own experience to



the table, and since they often have a different perspective, they can see challenges ... that a board member may not see," says Hutchison. She points out that a manager's objectivity is critical to guiding a board and the larger community through a delicate process. "It's helpful for the board to have someone in that manager role to share their expertise and best practices, and also share the burden of being the decision-maker."

COMMUNICATION AND ENFORCEMENT

Once your community has a set of approved pool rules, there's almost no such thing as *over communication*. "The more information you give people about the rules, the less conflict you'll have," says Hutchison. "People may not like the rules, but it won't be because they didn't get them."

Send the rules via email and post them on your website. Make hard copies available at communal locations and upon request. If you're planning a community-wide meeting or mailing, include the updated rules. "Everything that you do to educate the people that use your pool will help reduce the risk and the liability," says Getzoff.

And of course, the rules should be clearly posted on-site at the pool facility. When it comes to poolside signage, Getzoff recommends that the critical safety rules are posted separately—and more prominently—from the rules of conduct.

With the introduction of new rules inevitably comes the question of enforcement. "Enforcing rules can be a challenge," shares Busa. "The last thing anyone wants to do is pit neighbor against neighbor."

According to Busa, the community manager may have to "be the bad guy" when it comes to enforcement.

Boards also need to establish a clear protocol that residents should follow when they encounter violations, including whom to contact—it could be the manager or local law enforcement depending on the circumstances—when to notify the appropriate contacts, as well as expected follow-up policies. Those protocols and contacts also should be clearly posted on-site at the pool, particularly at facilities that do not have a lifeguard on-site or a manager on property.

Some rules, particularly hours of usage, can be enforced automatically. For example, Busa points out that communities that use security fobs for facility access can set the pool gates to only allow access during posted pool operating hours. Remotely-monitored security cameras also can be used both to dissuade violators and to quickly notify security when violations occur. And for some communities, the old-fashioned way may still work best: Phillips shares that Summerfield is considering setting up a "neighborhood watch" style program at its pool.

Jennifer Miller is a freelance writer in the Washington, D.C., area.