

The Covid-19 effects are causing states and municipalities to reevaluate the risks posed by recent upticks in infection. Fortunately, Illinois appears to be on a solid downward trend. This month we spotlight the newest of the phases as defined in the Restore Illinois plan. We will keep you alerted if any new gubernatorial, legislative or other legal news occurs which affects you and your association. Stay safe and informed!

On May 29 2020, we published a newsletter regarding Governor Pritzker's "Restore Illinois" plan which is the five-phase program for the gradual loosening of restrictions put in place to slow the spread of COVID-19. On June 26, 2020, Governor Pritzker signed Executive Order Number 2020-43 moving the State into Phase 4, while Chicago also moved into Phase 4 of the "Stay Safe Chicago" reopening plan. While there are changes, some precautions remain in place.

Social distancing should still be observed whenever possible, and masks should be worn when social distancing cannot be effectively exercised. Because of the capacity limitations and liability concerns (discussed below) with use of common amenities at this time, associations are encouraged to continue to limit amenity use to residents only. In addition, Executive Order 44, issued on June 26, 2020, reissued several prior executive orders. This includes the prior order placing a moratorium on initiation of eviction actions. Pursuant to Order 44, that hold on evictions will remain in place until at least July 26, 2020. While this prevents a community association from initiating an eviction action, it does not prevent an association from collecting assessments or pursuing other causes of action to collect unpaid assessments.

The following is a summary of what has changed.

1. Fitness Centers. Capacity can now increase to 50% capacity. Workout stations and equipment should be six (6) feet apart without barriers or three (3) feet apart with impermeable barriers in between. Equipment must be sanitized before and after each individual use and locker rooms and showers must be sanitized at least every hour. Users of the fitness room should wear a face covering over their nose and mouth whenever not exercising. Ancillary accommodations such as steam rooms should remain closed. ****NOTE:** Chicago guidelines limit fitness center capacity to 25%, and require face coverings at all times.

2. Party and Meeting Rooms. For indoor gathering places, such as party rooms, meeting rooms, and clubhouses, capacity must be limited to 50 people or less, or 50% of overall facility capacity, whichever is less, with social distancing. Groups are encouraged to be stationary – i.e. no dancing or milling around, and if the space is subdivided into rooms, patrons should not move from room to room. ****NOTE:** Chicago guidelines limit indoor activity participants to 25% normal capacity.

3. Sundecks and Other Outdoor Spaces. Outdoor gathering spaces such as sundecks are likewise limited to 50 people or less, or 50% of overall facility capacity, whichever is less, with social distancing. Interactions between multiple groups should be limited.

4. Pools. Both Illinois and Chicago guidelines provide for re-opening of outdoor pools at up to 50% capacity or 50 people, whichever is less (unless the pool is large enough for multiple groups of 50, spaced not less than 30 feet apart). Face coverings should be worn when out of the pool and social distancing should be practiced as much as possible. Chairs and pool equipment must be sanitized after each use, and locker rooms and restrooms must be sanitized more frequently. Signs regarding safety precautions (face coverings, sanitization, social distancing) should be posted. Notably, the Illinois

guidelines require that pool operators provide temperature checks for both employees and patrons when entering the pool area. (Although the guidelines do not state the temperature at which a person must be denied entry, and employee-to-patron contact is supposed to be limited.)

5. Association Employees. Face coverings should be worn, and capacity of all confined workspaces (such as association offices, shops for maintenance personnel, et cetera) should be limited to 50% capacity. Work from home arrangements and schedules should be implemented to limit capacity. Frequently touched surfaces are to be routinely cleaned and sanitized. Personal protective equipment (masks, gloves, other appropriate items) shall be made available, along with hand sanitizers. Employees should self-assess their health status before each shift, and should not report to in-person tasks if they are not feeling well, have any symptoms of illness, or have been in close contact with someone who has tested positive for COVID-19.

6. Other Considerations. The Centers for Disease Control, and Health Departments remind us to maintain good practices for safe interactions as much as possible. As they relate to residential buildings, these may include, as relevant: arranging for contactless delivery of parcels and food, posting revised elevator capacities, posting reminders about face coverings and social distancing, and marking social distancing minimums on floors.

7. Waivers and Warnings. Even though restrictions are loosening for amenity use, associations are still encouraged to have residents using the amenities execute waivers and before entering the space. In addition, where appropriate, signs should be posted reminding amenity users that they are proceeding at their own risk, and that social distancing and face covering requirements still apply.

8. Strict Compliance with Guidelines. Now that restrictions are being loosened, it may be tempting to restore operations and activities to normal. All associations, however, are very strongly encouraged to strictly comply with all federal, state and local guidelines. While it remains to be seen how liability issues will be decided when this pandemic finally passes, no doubt claims can and will be made against associations that operate in disregard of stated guidelines. While proving that an association's practices caused a COVID-19 infection will no doubt be difficult, the defense of that claim will still be time-consuming and – depending on the status of insurance coverage – potentially expensive. Likewise, we anticipate that insurers may try to limit coverage against claims when the claim is the result of an association not following stated guidelines.

We will continue to live with COVID-19 and we hope to continue to learn not only about it, but also how we can change our community living for the best. Stay safe and healthy during this difficult time.

Our attorneys remain available to meet (via videoconference) or otherwise discuss the action that Boards can and should take with respect to association matters (meetings, elections, rule violations, etc.) during this unprecedented and difficult time. We will continue to keep you advised of new developments as they arise.

**Chuck Keough (cmk@kmlegal.com),
Dawn Moody (dlm@kmlegal.com),
and
Gabiella Comstock (grc@kmlegal.com)**



