

# Do You Run a Public Pool?

by Alvaro G. Mendoza

**O**ne of the common misconceptions of building managers is that they do not operate a public pool. They feel that their gated community or private country club, complete with security checkpoint and uniformed guards, is not open to the public, and therefore, is not a public pool. Wrong! According to the Florida Department of Health (DOH), a public pool is ANY pool that services over five living units. That's right, even your multi-million dollar clubhouse pool, with a six-figure initiation fee, comes under the same classification as the 40-year-old municipal pool down the street.

Department of Health Administrative Code Chapter 64E-9 governs all public pools. Under 64E-9.001(1) "Regulation of public swimming pools and bathing places is considered by the department as significant in the prevention of disease, sanitary nuisances, and accidents by which the health or safety of an individual(s) may be threatened or impaired." In the Aquatic Facility Operator (AFO) class, we teach that the code helps protect us from ourselves.

DOH code is minimum code. The Florida DOH code is one of the best codes in the country. It provides us with time-tested guidelines that assure safe and appealing pool water. It is a minimum code, however, which means that the local (county) departments can be stricter than the state code. That allows the local department to require more



stringent guidelines and additional safety standards than are required by the state code. For example, the Florida DOH code requires automated Oxidation Reduction Potential (ORP) controllers be installed on new and

renovated spas. Recently, one Florida County DOH extended that requirement to all existing spas and aptly sized adjoining pools as well.

Favorable inspection does not mean compliance. The DOH regulation calls for semi-annual inspection of the swimming pool and pump room by a local DOH inspector. Over the years, we have seen a wide variation in both the intensity and attention to detail that the local inspector will provide during inspections. Like any other inspection process in today's society, you can have stricter or more lenient officers, depending on experience, time of day, etc. Remember, however, that just because the inspector doesn't catch you on a certain infraction, in the opinion of many, the responsibility of correcting the infraction and running the pool to code belongs to the owner... you.

#### **Code Compliance in 2005**

In today's litigious society, adherence to code takes on added dimension. Imagine missing a simple life ring or shepherd's hook and having someone drown in your pool after an unsuccessful rescue attempt. What would you do? What would be your defense? Remember, the code is the LAW.

So, now we know that we operate a public pool, that we, not the pool service company, are responsible for running the pool to the written code, and that the inspections don't necessarily point out all the potential infractions.

What are some of the common code requirements that are often overlooked?

- 64E-9.004(13): The keeping of a daily record of information regarding pool operation...

## **The 2004 Florida Statutes**

### **CHAPTER 514 (Excerpted)**

#### **PUBLIC SWIMMING AND BATHING FACILITIES**

##### **514.011 Definitions.—**as used in this chapter:

(2) "Public swimming pool" or "public pool" means a watertight structure of concrete, masonry, or other approved materials which is located either indoors or outdoors, used for bathing or swimming by humans, and filled with a filtered and disinfected water supply, together with buildings, appurtenances, and equipment used in connection therewith. A public swimming pool or public pool shall mean a conventional pool, spa-type pool, wading pool, special purpose pool, or water recreation attraction, to which admission may be gained with or without payment of a fee and includes, but is not limited to, pools operated by or serving camps, churches, cities, counties, day care centers, group home facilities for eight or more clients, health spas, institutions, parks, state agencies, schools, subdivisions, or the cooperative living-type projects of five or more living units, such as apartments, boardinghouses, hotels, mobile home parks, motels, recreational vehicle parks, and townhouses.

(3) "Private pool" means a facility used only by an individual, family, or living unit members and their guests which does not serve any type of cooperative housing or joint tenancy of five or more living units.

(4) "Public bathing place" means a body of water, natural or modified by humans, for swimming, diving, and recreational bathing, together with adjacent shoreline or land area, buildings, equipment, and appurtenances pertaining thereto, used by consent of the owner or owners and held out to the public by any person or public body, irrespective of whether a fee is charged for the use thereof. The bathing water areas of public bathing places include, but are not limited to, lakes, ponds, rivers, streams, artificial impoundments, and waters along the coastal and intracoastal beaches and shores of the state.

(5) "Portable pool" means a pool or spa, and related equipment systems of any kind, which is designed or intended to be movable from location to location.

##### **514.0115 Exemptions from supervision or regulation; variances.—**

(1) Private pools and water therapy facilities connected with facilities connected with hospitals, medical doctors' offices, and licensed physical therapy establishments shall be exempt from supervision under this chapter.

(2)(a) Pools serving no more than 32 condominium or cooperative units which are not operated as a public lodging establishment shall be exempt from supervision under this chapter, except for water quality.

(b) Pools serving condominium or cooperative associations of more than 32 units and whose recorded documents prohibit the rental or sublease of the units for periods of less than 60 days are exempt from supervision under this chapter, except that the condominium or cooperative owner or association must file applications with the department and obtain construction plans approval and receive an initial operating permit. The department shall inspect the swimming pools at such places annually, at the fee set forth in s. 514.033(3), or upon request by a unit owner, to determine compliance with department rules relating to water quality and lifesaving equipment. The department may not require compliance with rules relating to swimming pool lifeguard standards.

(3) A private pool used for instructional purposes in swimming shall not be regulated as a public pool.

(4) Any pool serving a residential child care agency registered and exempt from licensure pursuant to s. 409.176 shall be exempt from supervision or regulation under this chapter related to construction standards if the pool is used exclusively by the facility's residents and if admission may not be gained by the public.

(5) The department may grant variances from any rule adopted under this chapter pursuant to procedures adopted by department rule.

shall be the responsibility of the pool operator. The completed report shall reflect pool water tests at least once every 24 hours and shall be retained or submitted monthly as required by the local health department.

- 64E-9. 005: It is unlawful for any person(s) to begin...modification of any public pool without first having received written approval from the department.
- 64E-9. 007 (16): Disinfection and pH adjustment shall be added to the pool recirculation flow using automatic feeders...
- 64E-9. 004 (2): Manual addition of chemicals will be allowed under special conditions and requires that the pool be closed for at least a one hour period.
- 64E-9. 018: Any individual who services a public pool by maintaining the cleanliness, water quality, and chemical balance of public pools shall be certified.

- 64E-9. 018(6): Proof of certification shall be posted conspicuously in the equipment room ...or must otherwise be available for inspection.
- 64E-9. 004 (3): Pool... shall be kept free from sediment, floating debris, visible dirt, and algae. Pools shall be refinished when the pool surfaces cannot be maintained in a safe and sanitary condition.
- 64E-9. 010 (13): Automated Oxidation Reduction Potential (ORP) and pH controllers with sensing probes shall be provided on spa pools to assist in maintaining proper disinfection and pH levels.
- 64E-9. 007 (16): All chemicals shall be fed into the return line after the pump, heater and filters...

Please take the time to look over the DOH 64E-9 administrative code, the law that regulates the operation of your pool. Please realize that you, as the owner, have the ultimate responsibility for any pool-related accidents or fatalities that could possibly occur on your site. Please be aware that if and when these accidents were to occur, that you could be judged by the manner in which you uphold the written laws governing pools. Please note that, in the opinion of many, this responsibility cannot be assigned to a pool service company, water management service, or pool/beach concession.

Code compliance is easy and helps you provide for a crisp, blue pool that is "abuse resistant" and potentially trouble-free.

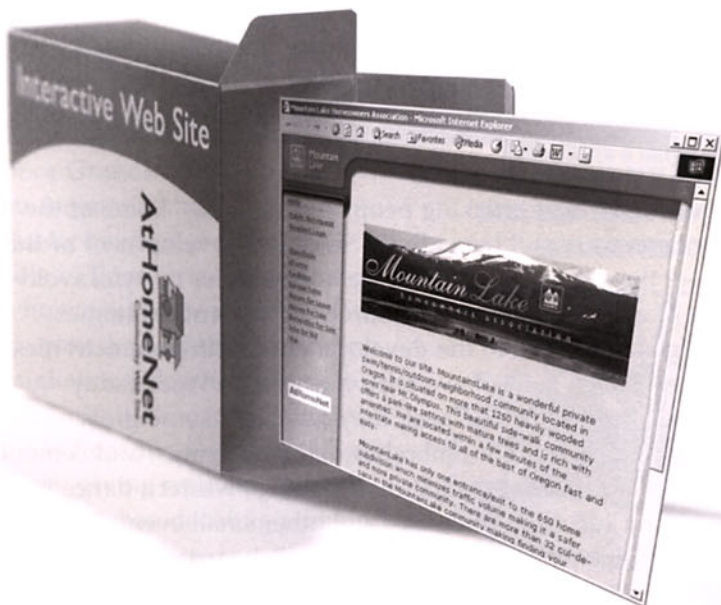
Now is the time to get your "public pool" to code and keep it there. You and your residents will be glad you did.

*Alvaro Mendoza is the president of Commercial Energy Specialists (CES) in Jupiter, Florida.*

*This article was excerpted from a past issue of Managers Report. ■*

# "Your community's complete communication solution."

Interactive Community Web Sites



## The AtHomeNet Service Includes:

- New functionality added monthly with no additional charge
- Free tech support
- Reliable web hosting and domain registration for your site
- Features such as calendars, message boards, announcements, email bulletins, newsletters, customizable forms, surveys, documents and so much more!

# AtHomeNet

Take an online tour at: [www.AtHomeNet.com](http://www.AtHomeNet.com)  
or call 800.556.7852 to learn more