

Spring Check-in: What Needs to be Done to Prep for Summer

Springtime means preparing both facilities and staff for a change in activities and workflows. From a risk management perspective, any type of change from a consistent routine can introduce risk exposures. Spring is a good time to review and revamp routines and checklists to ensure nothing is being missed during this hectic time. Additionally, this season promises to be unique from other springs in the past: it will be warmer, stormier and busier. The massive public gatherings for the solar eclipse clearly demonstrate that the general public is comfortable again with congregating in large groups. Combine this “Covid-rebound effect” with expected warm weather and we can surely anticipate a busy summer. As recreation facility practitioners, you are well-advised to ask what this might mean for your premises. Less staff, more responsibilities, and challenging claims scenarios all promise to throw a wrench in the finely tuned machine that is your facility.

Trees

Summer storm season has already begun in the South, with damaging wind and flooding. Couple that with an overly mild winter with its lack of consistently cold temperatures, means that your back-to-summer inspections could be a little different this year. The warm weather will mean that trees could be stressed from invasive species that are typically killed off during a normal cold winter. This year, especially for those parks and facilities that have large susceptible tree stocks, arborists may be required to complete a vulnerable tree check. Stressed trees are vulnerable trees, and vulnerable trees fall prey to disease, pests, strong winds and finally, extreme heat. Dead or dying trees are extreme hazards on trailways and in parks. Local certified arborists should be consulted when there is a concern – especially experts in your geographical area: the combination of tree species, the localized environment that trees are subject to, as well as expected stressors, must all be factored into the expert’s report. If action is required, be it a pruning or a removal, it should be acted upon as quickly as possible, and the action should be documented; consulting with experts and acting upon their recommendations reflects a “best practice” that can be called upon in the event of a mishap. Even healthy trees can be felled by strong winds, but it is incumbent upon the owner of the trees to do all

that is reasonable to ensure that all dangerous trees and conditions are remedied as promptly as possible.

Post-storm inspections of properties, including trees and their remediation, are important components of your risk management strategy. When the Tantalum Fires in Halifax struck last year, the trees that were felled the year prior during Hurricane Fiona, became unexpected fuel during a drought-ridden summer. Make post-storm tree inspections and remediation part of your strategy.

Sports Fields and Stray Electricity

Sports fields are oftentimes electrified. Outdoor lighting and electrical outlets are a concern that must be addressed by recreation practitioners to ensure there is no “stray electricity.” In 2022, the Electrical Safety Authority (ESA) published a Flash Newsletter which provides excellent guidance and information about stray electricity and sports fields: https://esasafe.com/assets/files/esasafe/pdf/Electrical_Safety_Products/Flash_Notices/22-08-FL.pdf.

The newsletter recommends a visual inspection of the electrical installations, specifically watching for the overall condition and compliance of the installation: Is the installation up-to-date and current (pardon the pun!)? All electrical cabling should be inventoried and inspected as part of a robust inspection in the spring – especially after severe weather.

The Flash newsletter also suggests the installation be inspected for:

- Lighting towers that are deteriorated or damaged – wooden boxes can degrade quickly over time and may no longer have effective locks;
- If the original electrical installation has been modified and no longer is code-compliant;
- Missing or improperly installed electrical box covers;
- Electrical wiring which has been housed in Electrical Metal Tubing (EMT), should be checked for deterioration and degradation which can lead to stray electrical current;

- Other conduit material may have been damaged, especially while covered by snow;
- Evidence of animal nesting should be addressed, and any damage remedied immediately.

The ESA recommendations highlight the importance of using licensed and certified electricians who are capable of addressing stray electrical concerns. Be sure to review the ESA's Flash newsletter and integrate their advice into your springtime inspections. Ensure that when the inspections are carried out, they are fully documented, and all recommendations are followed. Be prepared to cordon off the field, if necessary, until safety can be restored. Again, the importance of this documentation cannot be overstated: invoices, work orders, even photographs, form part of a file that can readily be accessed should a mishap occur.

Lifeguards

The recent lifeguard shortage, made worse by the Canadian Red Cross' announcement in 2022 that they would no longer offer lifeguard certification courses, meant that lifeguards would be at a premium and staffing will be a challenge. The need didn't stop overnight, and questions arose as to what level of protection facilities could offer. Though the challenge of adequate and appropriate staffing may always be a sore spot, make no mistake, the need for providing a safe facility, by the appropriate provision of certified lifeguard staff has not gone away. If the pools are open, they must be properly staffed. This also goes for splashpads and waterparks: simply because they are considered a Class C facility does not mean that lifeguards are not required (see below). The Government of Ontario provides the Recreational Water Reference Document: <https://files.ontario.ca/moh-ops-ref-recreational-water-2019-en.pdf> to assist you and provide guidance for the provision of lifeguards as well as compliance guidelines for other aquatic facilities. When standardized guidelines exist, they must be followed.

Though it is a common refrain, fully documenting your work, from robust hiring practices, to excellent employment documentation including checklists, agreements, and timesheets is integral to creating a risk management "best practice." This documentation can and will be called upon to provide a defence in the event of a lawsuit. The documentation will paint a picture for the court that the facility was properly staffed and adequately maintained.

The lack of properly trained lifeguard staff could lead to this question: *Will the facility be responsible if someone is in distress, and our staff doesn't respond because they are not*

certified? The answer might seem straightforward, but it can have a complex answer. As the Occupier, who is offering services to the general public, you must provide a premises and programs that are as safe as *reasonably* practicable. Ontario has legislation, *The Good Samaritan Act*, which can provide some protection to facility staff and management should an emergency occur, and lifesaving efforts are ineffective or end up causing harm. For example:

- A staff member is performing CPR and, in the process, breaks the ribs of the "rescued" individual. If the individual who required lifesaving CPR sues the facility as well as the staff member who performed the CPR, the facility could use *The Good Samaritan Act* as a defence: *it was our duty to try to save this person, and it was done in a good-faith effort to save them from harm.*
- Courts will look to the legislation, as well as the actions of facility management and the lifeguard: *had they been properly trained and deviated from that training? Was their training adequate and appropriate? Should more have been done to train staff? Should the staff member have performed CPR differently?* If the answers to the questions show that proper training was provided, life-saving techniques were applied correctly, and the education they received was certified by a recognized governing body, the defence counsel will likely be successful in arguing that the facility fulfilled their obligations under the legislation as well as *The Good Samaritan Act*.
- Had they performed CPR incorrectly, they would be deviating from the training they received which would be *unreasonable*, and they would be called to account for their deviation. Of course, we can never predict what will happen in a court, but suffice it to say, it is deemed more reasonable to help where you can, than to stand and do nothing in the face of an emergency situation.

Establish what staffing levels you will require insofar as the amount of properly trained and certified lifeguard staff. Understand and anticipate the breaking point: at what point you will close down the pool, splashpad, or waterpark due to insufficient staffing. Importantly, if there are exceptions caused in your process, be sure to note them and document them properly. Don't forget to test your process! If necessary, would you be able to access the documentation when you need it?

Class C Facilities

Splash pads and waterparks are unique recreational facilities. The interplay between electrical and water on a

splash pad, not to mention physical hazards like foot lacerations or trip-and-falls, create the need for specialized risk management. There are well-documented circumstances where splash pads are subjected to a wide variety of bacterial contamination which has, in the past, led to outbreaks of cryptosporidium, listeria as well as bacteria, just to name a few. This year, with the anticipated extreme heat, splash pads and waterparks will be a focal point of the community and may require extra attention to ensure continued and safe operations. Remember however, that standard inspections may need to be modified to accommodate extreme heat and more visitors/use.

Marinas and Waterfronts

Our Risk Management Department is often asked for advice regarding marinas and waterfronts. Like splash pads, the interplay of water and hard landscaping, combined with the potential presence of electricity, create the need for specialized risk management considerations. In the spring, practitioners must be watchful for storm damage to piers, docks, and pay special attention to areas where electrical conduits may have sustained damage over the winter months. Electrical systems that support marinas or docks should be assessed by certified electricians and access to the area should not be permitted unless it is deemed safe. We have noted that in some cases, municipalities have been “gifted” marina operations from other entities – either provincial or federal. Be especially cautious when accepting new assets like marinas and docks into the asset inventory of your municipality:

1. Ensure there is an agreement in place as to the condition of the docks/marina (and have the agreement reviewed to ensure the municipality’s best interests are protected).
2. A full and robust inspection should be carried out by qualified staff to assess the overall condition of any docks/piers/walkways and marina operations prior to the acceptance of the asset(s).
3. Notify your insurer of the impending addition of the new asset/liability.
4. Where gas provision operations are present, recognize that this is a very specialized risk that must be properly addressed by its own set of environmental risk management practices. This is true even if the pumps are no longer operational.
5. Where boat launches are present, ensure that any adjacent beaches or swimming areas are properly cordoned off away from motorized watercraft.

Remember that any interplay between vehicles (that will be reversing!) and pedestrians (especially children) must be avoided and controlled for.

6. Adequate signage is critical to advise visitors about any unsafe conditions such as: offshore undercurrents, lifeguard attendance, wild animals, motorized watercraft, emergency procedures and contact information.

The Red Cross has published a guide to waterfront operations that may assist you in starting up your marina/waterfront area for the summer: https://www.redcross.ca/crc/documents/Training-and-Certification/Swimming-and-Water-Safety-Tips-and-Resources/ASP-Guide-for-Waterfront-Operations_FINAL_EN.pdf.

Signage

The spring is also an excellent time to consider your signage. The prime goal of signs must be to communicate to the general public. This might seem straightforward however, there is a prevailing sentiment in some quarters that signage can be used to effectively avoid liability in the event of a mishap. Indeed, signs can be an effective tool to mitigate exposure to liability, but they are in no way a “silver bullet.”

In order to use signs effectively, consider the following:

- Is the sign outdated? (we are looking at you, Covid signs)
 - Old and faded signage must be revamped and readable.
- Who is the intended audience? You may wish to consider pictograms in cases where English may not be widely spoken or understood. Child-friendly signs should communicate hazards in a meaningful way.
- Placement of signs is very important – especially when hazards exist: consider signage at trailheads or any points of facility access: If no one sees the signs, they are not serving their purpose.
- Treat your signs as assets that must be managed: Do you have an inventory of your signage?
- Consider temporary signs for emerging or temporary hazards; but remember if you use them, they must stay current and then removed when the hazard no longer exists.
- Appropriate contact information (sometimes using QR codes) can be implemented to encourage users to report unsafe conditions in the park or on the trail.

- Signs in remote areas can have GPS coordinates so if an emergency occurs, users can pinpoint their location so EMS can locate them promptly.

Risk Management

Though signs can be used as part of an effective defence when a lawsuit develops due to an injury or a loss, they are only part of a defence. They are only a small component of a holistic and systematic communication strategy that helps to mitigate risk exposure for the municipality. The strategy must be exactly that; strategic, and to be effective it will encompass:

1. Identifying Risk Exposures: Where are the hazards in the community or in your facility?
2. Analyzing Risk Exposures: What is the worst-case scenario and what will the impact be should it occur? What is the likelihood of an incident?
3. Formulating Solutions: You may be able to transfer the risk to another party using a formal agreement. You may need to hire more staff to help control the risk exposure. Floor mats could help control for slip-and-fall hazards.
4. Implement Solutions: Strategically communicate the plan to all staff - from senior managers to front-line workers.
5. Monitor and Modify: Risk management is not meant to be a once-and-done strategy, communication must be a feedback loop from front-line staff. If the solution is not effective, it must be tweaked.

This summer, we can expect dynamic and extreme weather. You need to implement this risk management strategy into the operation of your facilities and communities to: 1) avoid emergencies where you can and 2) anticipate emergencies so you can deal with them effectively when they occur. If you practice this process and anticipate risk exposures, you will be able to address them head-on. Creating a paper trail of documentation which reflects your good work is integral to the strategy. Remember, when a lawsuit occurs, proper documentation is key to a good defence: if you can't prove you did the work, you didn't.

IPE and ORFA work together to research and provide guidance so you can proactively manage risk at your recreation facilities, including the proper use of documentation.

