

## Chapter 300. Zoning

### Part 5. Development Standards

#### Article 53. Setbacks, Yards, and Encroachments

##### § 300-53.16. Swimming pools.

- A. Noncommercial aboveground or in-ground swimming pools may be permitted subject to the issuance of a permit by the Code Enforcement Officer, who, when giving such approval, shall certify that the following regulations are complied with:
- (1) All swimming pools shall meet the minimum side and rear yard requirements of the district in which they are located.
  - (2) A plot plan indicating elevations with dimensions drawn to scale shall be submitted for approval. The plot plan shall also show:
    - (a) Pool dimensions, depth and volume in gallons.
    - (b) Type and size of filtering system.
    - (c) Location of filtering system and motor.
- B. Safeguards: aboveground pool. Any artificial pool or structure intended for wading, bathing or swimming purposes which is so constructed as to be above grade and which has a ladder or steps in order to obtain access to said pool shall be subject to the requirements that whenever said pool is not attended by a person of suitable age, that said steps or ladder to obtain access to said pool shall be removed, raised or screened so that a person may not gain access to said pool.
- C. Any aboveground swimming pool whose structure is less than four feet in height must be safeguarded with a permanent protective fence, said fence to be installed so as to encompass the entire perimeter of the swimming pool. Said fence shall be structurally sound, durable and must be maintained in such a condition. Said fence shall be a minimum of 48 inches in height and shall be of wooden or metal construction. All openings in said fence shall be so constructed as to prohibit the passage of a two-inch-diameter sphere. The entrance gate or gates shall have a self-latching device and, except for ingress and egress to and from the swimming pool area, must be kept closed at all times.
- D. Safeguards: in-ground pool. No person or persons, association or corporation shall maintain an in-ground swimming pool, as defined herein, without first safeguarding such swimming pool with a permanent protective fence, said fence to be installed so as to encompass the entire perimeter of the swimming pool. Said fence shall be structurally sound, durable and must be maintained in such condition. Said fence shall be a minimum of 48 inches in height. All openings in said fence shall be so constructed as to prohibit the passage of a two-inch-diameter sphere. The entrance gate or gates shall have a self-latching device and, except for ingress and egress to and from the swimming pool area, must be kept closed at all times.



## Code Outreach Program – Above-Ground Swimming Pool Barrier Requirements

This document is intended to clarify some of the barrier requirements applicable to new or substantially modified *residential* above ground swimming pools. Those reviewing plans for the installation, or substantial modification, of a swimming pool should review the full text of the provisions found in the Uniform Code as well as the local laws, ordinances, codes, and regulations of the municipality where the pool is to be installed for any further requirements.

The word “*residential*,” as used in this document, applies to pools accessory to one- and two-family dwellings regulated by the [2020 Residential Code of New York State](#) (2020 RCNYS) and to pools accessory to detached one- and two-family dwellings classified as Group R-3 occupancies constructed under the [2020 Building Code of New York State](#) (2020 BCNYS). Provisions for communal swimming pools accessory to townhouses and swimming pools accessory to other buildings regulated by the 2020 BCNYS, can be found in Section 3109 of the 2020 BCNYS. The provisions for *residential* pools are found in Section R326 of the 2020 RCNYS.

The 2020 RCNYS defines a swimming pool as “*any structure, basin, chamber or tank which is intended for swimming, diving, recreational bathing or wading and which contains, is designed to contain, or is capable of containing water more than 24 inches (610 mm) deep at any point. This includes in-ground, above-ground and on-ground pools, indoor pools, hot tubs, spas, and wading pools.*”

New or substantially modified swimming pools are required to be provided with temporary barriers during installation (see Section R326.4.1) and with permanent barriers thereafter. The permanent barrier requirements are found in Section R326.4.2 and include heights, clearances, and opening size and configuration.

In accordance with Section R326.4.2.9, as an alternate to a conventional on ground barrier, the barrier for above-ground or on-ground swimming pools, including quick set, inflatable swimming pools, is permitted to be mounted on top of the pool structure or the pool structure may constitute a barrier, where all the following requirements are met:

1. the structure shall meet the applicable barrier and gate requirements of Section R326.4.2, including among others, a 48-inch height (see Section R326.4.2.9);
2. the barrier is designed “*to provide protection against potential drowning and near drowning by sufficiently preventing access to [the] swimming*” pool (see Section R326.4);
3. the pool and pool structure must be designed and constructed in compliance with ANSI/APSP/ICC 4, 2012 titled *American National Standard for Aboveground/ Ongoing Residential Swimming Pools* (see Section R326.4.2.9);
4. the pool manufacturer certifies that the pool structure, if used as a barrier or with a barrier mounted on it, is designed with accepted structural engineering practices (see Section 6.1 of ANSI/APSP/ICC 4); and
5. if the means of access is a ladder or steps, then:
  - a. the ladder or steps shall be capable of being secured, locked or removed to prevent access; or
  - b. the ladder or steps shall be surrounded by a complying swimming pool barrier. See Section R326.4.2.9 (1) and (2).

A wall, or walls, of a dwelling may also serve as part of the barrier, provided that they meet the applicable barrier requirements of Section R326.4.2. Barriers shall be located in a manner that prohibits permanent structures, equipment, or similar objects from being used to climb the barrier.

Other requirements of the 2020 RCNYS are applicable, including requirements for gates, pool alarms, and entrapment protection.

The [2020 Property Maintenance Code of New York State](#) requires that all swimming pools, enclosures/barriers, alarms, and entrapment protection be maintained in a clean and sanitary condition, and in good repair.

Please look for our next edition of the Code Outreach Program at the beginning of next month.

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## SECTION R326 SWIMMING POOLS, SPAS AND HOT TUBS

**[NY] R326.1 General.** The provisions of this section shall control the design and construction as well as substantial modification of swimming pools, spas and hot tubs installed in or on the lot of dwellings regulated under this code, and detached one- and two-family dwellings classified as Group R-3 and constructed under the *Building Code of New York State*.

**Exception:** Communal pools for the shared use of multiple townhouse units shall be regulated by the *Building Code of New York State*.

**[NY] R326.1.1 Compliance with other sections.** Swimming pools, spas and hot tubs shall comply with this section and other applicable sections of this code. The requirements of this section and of the other applicable sections of this code shall be in addition to, and not in replacement of or substitution for, the requirements of other applicable federal, state and local laws and regulations, including, but not necessarily limited to the requirements of Section 8003 (Federal swimming pool and spa drain cover standard) of Title 15 of the United States Code (CPSC 15 USC 8003), where applicable.

**[NY] R326.2 Definitions.** For the purpose of these requirements, the terms used shall be defined as follows and as set forth in Chapter 2.

**BARRIER, PERMANENT.** A fence, the walls of a permanent structure, any other structure or combination thereof which completely surrounds the swimming pool and sufficiently obstructs access to the swimming pool.

**BARRIER, TEMPORARY.** An approved temporary fence, permanent fence, the walls of a permanent structure, any other structure, or any combination thereof that sufficiently prevents access to the swimming pool by any person not engaged in the installation or construction of the swimming pool during its installation or construction.

**HOT TUB.** See "Spa."

**RESIDENTIAL.** That which is situated on the premises of dwellings regulated under this code, and detached dwellings classified as R-3 and constructed under the *Building Code of New York State*.

**SPA.** A portable or nonportable structure intended for recreational or therapeutic bathing, in which all controls, water-heating and water-circulating equipment are an integral part of the product. Spas are shallow in depth and are not designed for swimming or diving.

**SUBSTANTIAL DAMAGE.** For the purpose of determining compliance with the pool alarm provisions of this section, damage of any origin sustained by a swimming pool, whereby the cost of restoring the swimming pool to its before-damaged condition would equal or exceed 50 percent of the market value of the swimming pool before the damage occurred.

**SUBSTANTIAL MODIFICATION.** For the purpose of determining compliance with the pool alarm provisions of this section, any repair, alteration, addition or improvement of a swimming pool, the cost of which equals or exceeds 50 percent of the market value of the swimming pool before the improvement or repair is started. If a swimming pool has sustained substantial damage, any repairs are considered substantial modification regardless of the actual repair work performed.

**SUCTION OUTLET.** A fitting, fitting assembly, cover/ grate, sump, and related components that provide a localized low-pressure area for the transfer of water from a swimming pool.

**SWIMMING POOL.** Any structure, basin, chamber or tank which is intended for swimming, diving, recreational bathing or wading and which contains, is designed to contain, or is capable

of containing water more than 24 inches (610 mm) deep at any point. This includes in-ground, above-ground and on-ground pools, indoor pools, hot tubs, spas, and wading pools.

**SWIMMING POOL, INDOOR.** A swimming pool which is totally contained within a structure and surrounded on all four sides by the walls of the enclosing structure.

**SWIMMING POOL, OUTDOOR.** Any swimming pool which is not an indoor pool.

**[NY] R326.3 Compliance with other standards.**

**[NY] R326.3.1 In-ground pools.** In-ground pools shall be designed and constructed in conformance with ANSI/APSP/ICC 5 (American National Standard for Residential Inground Swimming Pools, 2011).

**[NY] R326.3.2 Above-ground and on-ground pools.**

Above-ground and on-ground pools shall be designed and constructed in conformance with ANSI/APSP/ICC 4 (American National Standard for Aboveground/Onground Residential Swimming Pools, 2012).

**[NY] R326.3.3 Permanently installed spas and hot tubs.** Permanently installed spas and hot tubs shall be designed and constructed in conformance with ANSI/APSP/ICC 3 (American National Standard for Permanently Installed Residential Spas and Swim Spas, 2014).

**[NY] R326.3.4 Portable spas and hot tubs.** Portable spas and hot tubs shall be designed and constructed in conformance with ANSI/APSP/ICC 6 (American National Standard for Residential Portable Spas and Swim Spas, 2013).

**[NY] R326.4 Barriers, application.** The provisions of this section shall control the design of barriers for swimming pools, spas and hot tubs. These design controls are intended to provide protection against potential drowning and near drowning by sufficiently preventing access to swimming pools, spas and hot tubs by persons outside the property, persons within the dwelling, and persons in other parts of the property not contained within the pool enclosure.

**[NY] R326.4.1 Temporary barriers.** An outdoor swimming pool shall be surrounded by a temporary barrier during installation or construction that shall remain in place until a permanent barrier in compliance with Section R326.4.2 is provided.

**Exceptions:**

1. Above-ground or on-ground pools where the pool structure constitutes a barrier in compliance with Section R326.4.2.9.2. Spas or hot tubs with a safety cover which complies with ASTM F1346, provided that such safety cover is in place during the period of installation or construction of such hot tub or spa. The temporary removal of a safety cover as required to facilitate the installation or construction of a hot tub or spa during periods when at least one person engaged in the installation or construction is present is permitted.

**[NY] R326.4.1.1 Height.** The top of the temporary barrier shall be at least 48 inches (1219 mm) above grade measured on the side of the barrier which faces away from the swimming pool.

**[NY] R326.4.1.2 Replacement by a permanent barrier.**

A temporary barrier shall be replaced by a complying permanent barrier within either of the following periods:

1. 90 days of the date of issuance of the building permit for the installation or construction of the swimming pool; or
2. 90 days of the date of commencement of the installation or construction of the swimming pool.

**[NY] R326.4.1.2.1 Replacement extension.** Subject to the approval of the *building official*, the time period for completion of the permanent barrier may be extended for good cause, including, but not limited to, adverse weather conditions delaying construction.

**[NY] R326.4.2 Permanent barriers.** Swimming pools shall be completely enclosed by a permanent barrier complying with Sections R326.4.2.1 through R326.4.2.6.

**[NY] R326.4.2.1 Barrier height and clearances.** The top of the barrier shall be no less than 48 inches (1219mm) above grade measured on the side of the barrier that faces away from the swimming pool. The vertical clearance between grade and the bottom of the barrier shall be not greater than 2 inches (51 mm) measured on the side of the barrier that faces away from the swimming pool. Where the top of the pool structure is above grade, the barrier may be at ground level, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the barrier shall comply with Sections R326.4.2.2 and R326.4.2.3.

**[NY] R326.4.2.2 Solid barrier surfaces.** Solid barriers which do not have openings shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.

**[NY] R326.4.2.3 Closely spaced horizontal members.**

Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches (1143mm), the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed 13/4 inches (44 mm) in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall be not greater than 13/4 inches (44 mm) in width.

**[NY] R326.4.2.4 Widely spaced horizontal members.**

Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches (1143 mm) or more, spacing between vertical members shall be not greater than 4 inches (102 mm). Where there are decorative cutouts within vertical members, spacing within the cutouts shall be not greater than 13/4 inches (44 mm) in width.

**[NY] R326.4.2.5 Chain link dimensions.** Maximum mesh size for chain link fences shall be a 21/4 inch (57mm) square, unless the fence has vertical slats fastened at the top or the bottom which reduce the openings to not more than 13/4 inches (44 mm).

**[NY] R326.4.2.6 Diagonal members.** Where the barrier is composed of diagonal members, the maximum opening formed by the diagonal members shall be not greater than 13/4 inches (44 mm).

**[NY] R326.4.2.7 Gates.** Gates shall comply with the requirements of Sections R326.4.2.1 through R326.4.2.6, and with the following requirements:

**[NY] R326.4.2.7.1 Self-closing and opening configuration.**

All gates shall be self-closing. In addition, if the gate is a pedestrian access gate, the gate shall open outward, away from the pool.

**[NY] R326.4.2.7.2 Latching.** All gates shall be selflatching, with the latch handle located within the enclosure (i.e., on the pool side of the enclosure) and at least 40 inches (1016 mm) above grade. In addition, if the latch handle is located less than 54 inches (1372 mm) from grade, the latch handle shall be located at least 3 inches (76 mm) below the top of the gate, and neither the gate nor the barrier shall have any opening greater than 0.5 inch (12.7 mm) within 18 inches (457 mm) of the latch handle.

**[NY] R326.4.2.7.3 Locking.** All gates shall be securely locked with a key, combination or other child-proof lock sufficient to prevent access to the swimming pool through such gate when the swimming pool is not in use or supervised.

**[NY] R326.4.2.8 Dwelling wall as barrier.** A wall or walls of a dwelling may serve as part of the barrier, provided that the wall or walls meet the applicable barrier requirements of Sections R326.4.2.1 through R326.4.2.6, and one of the following conditions shall be met:

1. a) Doors with direct access to the pool through that wall shall be equipped with an alarm that produces an audible warning when the door and/or its screen, if present, are opened. The alarm shall be listed in accordance with UL 2017. The audible alarm shall activate within 7 seconds and sound continuously for a minimum of 30 seconds after the door and/or its screen, if present, are opened and be capable of being heard throughout the house during normal household activities. The alarm shall automatically reset under all conditions. The alarm system shall be equipped with a manual means, such as touch pad or switch, to temporarily deactivate the alarm for a single opening. Deactivation shall last for not more than 15 seconds; and b) Operable windows in the wall or walls used as a barrier shall have a latching device located no less than 48 inches above the floor. Openings in operable windows shall not allow a 4-inch-diameter (102 mm) sphere to pass through the opening when the window is in its largest opened position; and c) Where the dwelling is wholly contained within the pool barrier or enclosure, alarms shall be provided at every door with direct access to the pool; or
2. Other approved means of protection, such as selfclosing with self-latching devices, so long as the degree of protection afforded is not less than the protection afforded by Item 1 described above.

**[NY] R326.4.2.8.1 Alarm deactivation switch**

**location.** Where an alarm is provided, the deactivation switch shall be located 54 inches (1372 mm) or more above the threshold of the door. In dwellings required to be Accessible units, Type A units, or Type B units, the deactivation switch shall be located 48 inches (1219 mm) above the threshold of the door.

**[NY] R326.4.2.9 Pool structure as barrier.** Where an above-ground pool structure is used as a barrier, or where the barrier is mounted on top of the pool structure, the structure shall be designed and constructed in compliance with ANSI/APSP/ICC 4 and meet the applicable barrier requirements of Sections R326.4.2.1 through R326.4.2.8. Where the means of access is a ladder or steps, one of the following conditions shall be met:

1. The ladder or steps shall be capable of being secured, locked or removed to prevent access. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch-diameter (102 mm) sphere; or
2. The ladder or steps shall be surrounded by a barrier which meets the requirements of Sections R326.4.2.1 through R326.4.2.8.

**[NY] R326.4.3 Indoor swimming pool.** Walls surrounding an indoor swimming pool shall comply with Section R326.4.2.8.

**[NY] R326.4.4 Prohibited locations.** Barriers shall be located so as to prohibit permanent structures, equipment or similar objects from being used to climb the barrier.

**[NY] R326.5 Entrapment protection for swimming pool and spa suction outlets.** Suction outlets shall be designed to produce circulation throughout the pool or spa. Single-outlet systems, such as automatic vacuum cleaner systems, or multiple suction outlets, whether isolated by valves or otherwise, shall be protected against user entrapment.

**[NY] R326.5.1 Compliance.** Suction outlets shall be designed and installed in accordance with the requirements of CPSC 15 USC 8003 and ANSI/APSP/ICC 7, where applicable.

**[NY] R326.6 Suction outlets.** Suction outlets shall be designed to produce circulation throughout the pool or spa. Single-outlet systems, such as automatic vacuum cleaner systems, or multiple suction outlets, whether isolated by valves or otherwise, shall be protected against user entrapment.

**[NY] R326.6.1 Compliance alternative.** Suction outlets may be designed and installed in accordance with ANSI/APSP/ICC 7.

**[NY] R326.6.2 Suction fittings.** Pool and spa suction outlets shall have a cover that conforms to ANSI/ASME A112.19.8, or an 18 inch by 23 inch (457 mm by 584 mm) drain grate or larger, or an approved channel drain system.

**Exception:** Surface skimmers.

**[NY] R326.6.3 Atmospheric vacuum relief system required.** Pool and spa single- or multiple-outlet circulation systems shall be equipped with atmospheric vacuum relief should grate covers located therein become missing or broken. This vacuum relief system shall include at least one approved or engineered method of the type specified herein, as follows:

1. Safety vacuum release system conforming to ASME A112.19.17; or
2. An approved gravity drainage system.

**[NY] R326.6.4 Dual drain separation.** Single or multiple pump circulation systems have a minimum of two suction outlets of the approved type. A minimum horizontal or vertical distance of 3 feet (914 mm) shall separate the outlets. These suction outlets shall be piped so that water is drawn through them simultaneously through a vacuum relief-protected line to the pump or pumps.

**[NY] R326.6.5 Pool cleaner fittings.** Where provided, vacuum or pressure cleaner fitting(s) shall be located in an accessible position(s) at least 6 inches (152 mm) and not more than 12 inches (305 mm) below the minimum operational water level or as an attachment to the skimmer(s).

**[NY] R326.7 Swimming pool and spa alarms, applicability.** A swimming pool or spa installed, constructed or substantially modified after December 14, 2006, shall be equipped with an approved pool alarm. Pool alarms shall comply with ASTM F2208 (Standard Specification for Pool Alarms), and shall be installed, used and maintained in accordance with the manufacturer's instructions and this section.

**Exceptions:**

1. A hot tub or spa equipped with a safety cover which complies with ASTM F1346.
2. A swimming pool (other than a hot tub or spa) equipped with an automatic power safety cover which complies with ASTM F1346.

**[NY] R326.7.1 Multiple alarms.** A pool alarm must be capable of detecting entry into the water at any point on the surface of the swimming pool. If necessary to provide detection capability at every point on the surface of the swimming pool, more than one pool alarm shall be provided.

**[NY] R326.7.2 Alarm activation.** Pool alarms shall activate upon detecting entry into the water and shall sound poolside and inside the dwelling.

**[NY] R326.7.3 Prohibited alarms.** The use of personal immersion alarms shall not be construed as compliance with this section.

## 2020 Energy Code of New York State

**N1103.10 (R403.10) Pools and permanent spa energy consumption (Mandatory).** The energy consumption of pools and permanent spas shall be in accordance with Sections N1103.10.1 through N1103.10.3.

**N1103.10.1 (R403.10.1) Heaters.** The electric power to heaters shall be controlled by a readily accessible on-off switch that is an integral part of the heater mounted on the exterior of the heater, or external to and within 3 feet (914 mm) of the heater. Operation of such switch shall not change the setting of the heater thermostat. Such switches shall be in addition to a circuit breaker for the power to the heater. Gas-fired heaters shall not be equipped with continuously burning ignition pilots.

**N1103.10.2 (R403.10.2) Time switches.**

Time switches or other control methods that can automatically turn off and on according to a preset schedule shall be installed for heaters and pump motors. Heaters and pump motors that have built-in time switches shall be in compliance with this section.

**Exceptions:**

1. Where public health standards require 24-hour pump operation.
2. Pumps that operate solar- and waste-heat-recovery pool heating systems.

**[NY]N1103.10.3 (R403.10.3) Covers.**

Outdoor heated pools and outdoor heated permanent spas shall be equipped with a vapor-retardant pool cover or other *approved* vapor retardant means. Outdoor heated pools and outdoor heated permanent spas heated to more than 90°F (32°C) shall have a pool cover with a minimum insulation value of R-12.

**Exception:** Where more than 60 percent of the energy for heating is from site-recovered energy or solar energy source, covers or other vapor-retardant means shall not be required

**N1103.11 (R403.11) Portable spas (Mandatory).**

The energy consumption of electric-powered portable spas shall be controlled by the requirements of APSP 14.

**N1103.12 (R403.12) Residential pools and permanent residential spas.**

Residential swimming pools and permanent residential spas that are accessory to detached one- and two-family dwellings and townhouses three stories or less in height above grade plane and that are available only to the household and its guests shall be in accordance with APSP 15.