

February 9, 2021

Re: NYS 2020 Residential Code as it pertains to hot tubs and spas

Please be advised that in the 2020 NYS Residential Code, effective on May 12th, 2020, the exception for hot tubs and spas to be exempt from the requirements of having a permanent barrier when equipped with a safety cover meeting ASTM F 1346, has been removed.

This means that a hot tub or spa is required to meet the permanent barrier requirements as set forth in R326.4.2, generally speaking but not limited to the following; a fence, enclosure, edge raised to 48 inches or other means to satisfy the barrier requirements.

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.

R326.4.2.1 Barrier height and clearances. The top of the barrier shall be no less than 48 inches (1219 mm) 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.

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.

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 (1143 mm), the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed $1\frac{3}{4}$ inches (44 mm) in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall be not greater than $1\frac{3}{4}$ inches (44 mm) in width.

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 $1\frac{3}{4}$ inches (44 mm) in width.

R326.4.2.5 Chain link dimensions. Maximum mesh size for chain link fences shall be a $2\frac{1}{4}$ inch (57 mm) square, unless the fence has vertical slats fastened at the top or the bottom which reduce the openings to not more than $1\frac{3}{4}$ inches (44 mm).

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 $1\frac{3}{4}$ inches (44 mm).

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:

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.

R326.4.2.7.2 Latching. All gates shall be self-latching, 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.

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.

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 self-closing with self-latching devices, so long as the degree of protection afforded is not less than the protection afforded by Item 1 described above.

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.

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.

R326.4.3 Indoor swimming pool. Walls surrounding an indoor swimming pool shall comply with Section R326.4.2.8.

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.