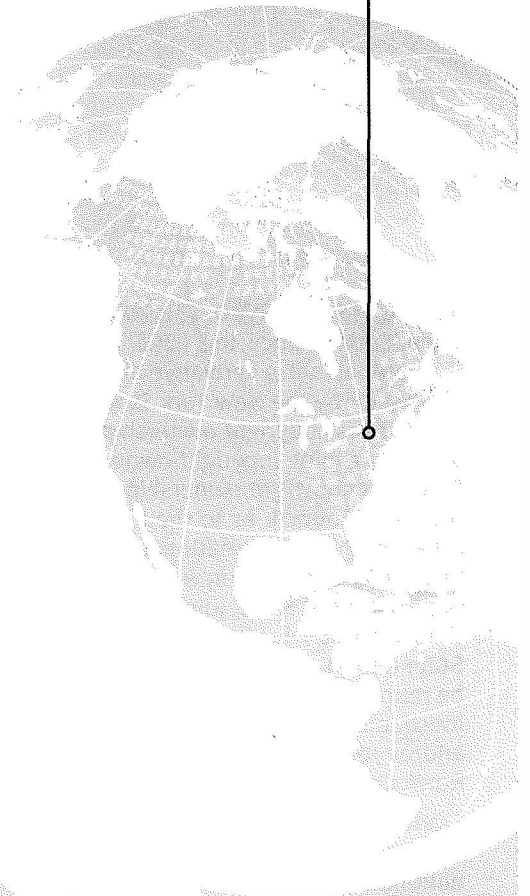


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RESIDENTIAL CODE OF NEW YORK STATE®



Kathy Hochul Governor
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Department of State
Building Standards & Codes



SECTION R328—SWIMMING POOLS, SPAS AND HOT TUBS

[NY] R328.1 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 *swimming pools* for the shared use of multiple *townhouse units* shall be regulated by the *Building Code of New York State*.

[NY] R328.1.1 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 CPSC 15 USC 8003, where applicable.

[NY] R328.2 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 also 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 FITTINGS. All components, including the sump and/or body cover/grate and hardware.

SUCTION OUTLET. A submerged fitting, fitting assembly, cover/grate and related components that provide localized low-pressure area for the transfer of water from a *swimming pool, spa or hot tub*. Submerged suction outlets have been referred to as main drains.

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] R328.3 Compliance with other standards. *Swimming pools, hot tubs, and spas* shall comply with other standards as specified in Sections R328.3.1 through R328.3.4.

[NY] R328.3.1 In-ground pools. In-ground *swimming pools* shall be designed and constructed in conformance with ANSI/APSP/ICC 5.

[NY] R328.3.2 Above-ground and on-ground pools. Above-ground and on-ground *swimming pools* shall be designed and constructed in conformance with ANSI/APSP/ICC 4.

[NY] R328.3.3 Permanently installed spas and hot tubs. Permanently installed *spas and hot tubs* shall be designed and constructed in conformance with ANSI/APSP/ICC 3.

[NY] R328.3.4 Portable spas and hot tubs. Portable *spas and hot tubs* shall be designed and constructed in conformance with ANSI/APSP/ICC 6.

[NY] R328.4 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 *buildings* on the property, and persons in other parts of the property not contained within the *swimming pool* enclosure.

[NY] R328.4.1 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 R328.4.2 is provided.

Exceptions:

1. Above-ground or on-ground *swimming pools* where the pool structure constitutes a barrier in compliance with Section R328.4.2.9.
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] R328.4.1.1 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] R328.4.1.2 Replacement by a permanent barrier. A *temporary barrier* shall be replaced by a complying *permanent barrier* within either of the following periods:

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

[NY] R328.4.1.2.1 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] R328.4.2 Permanent barriers. *Swimming pools*, *spas*, and *hot tubs* shall be completely enclosed by a *permanent barrier* complying with Sections R328.4.2.1 through R328.4.2.9.

Exception: A *hot tub* or *spa* with a safety cover which complies with ASTM F1346 shall not be required to comply with Section R328.4.2.

[NY] R328.4.2.1 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 R328.4.2.2 and R328.4.2.3.

[NY] R328.4.2.2 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] R328.4.2.3 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.

[NY] R328.4.2.4 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.

[NY] R328.4.2.5 Chain link dimensions. Maximum mesh size for chain link fences shall be a $1\frac{3}{4}$ 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).

[NY] R328.4.2.6 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).

[NY] R328.4.2.7 Gates. Gates shall comply with the requirements of Sections R328.4.2.1 through R328.4.2.6 and Sections R328.4.2.7.1 through R328.4.2.7.3.

[NY] R328.4.2.7.1 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 *swimming pool*.

[NY] R328.4.2.7.2 Latching. All gates shall be self-latching. For doors and gates in barriers, the door and gate latch release mechanisms shall be in accordance with the following:

1. Where door and gate latch release mechanisms are accessed from the outside of the barrier and are not of the self-locking type, such mechanism shall be located not less than 54 inches (1372 mm) above the finished floor or ground surface.
2. Where door and gate latch release mechanisms are of the self-locking type such as where the lock is operated by means of a key, an electronic opener or the entry of a combination into an integral combination lock, the lock operation control and the latch release mechanism shall be located not greater than 54 inches (1372 mm) above the finished floor or ground surface.
3. At private pools, where the only latch release mechanism of a self-latching device for a gate is located on the pool and spa side of the barrier, the release mechanism shall be located at a point that is at least 3 inches (76 mm) below the top of the gate.

[NY] R328.4.2.7.3 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] R328.4.2.8 Dwelling wall as barrier. A wall or walls of a *dwelling* and its *accessory structures* may serve as part of the barrier, provided that the wall or walls meet the applicable barrier requirements of Sections R328.4.2.1 through R328.4.2.6, and one of the following conditions shall be met:

1. All of the following:
 - 1.1. Doors with direct access to the *swimming 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* and *labeled* in accordance with UL 2017. The audible alarm shall activate within 7 seconds; 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.
 - 1.2. Operable windows providing direct access to the *swimming pool*, having a sill height of less than 48 inches above the indoor finished floor in the wall and a sill height of less than 72 inches (1829 mm) above the adjacent exterior surface, in the wall or walls used as a barrier, shall have a latching device located no less than 48 inches (1219 mm) above the floor. Openings in operable windows which provide direct access to the *swimming pool* shall not allow a 4-inch-diameter (102 mm) sphere to pass through the opening when the window is in its largest opened position.
 - 1.3. Where the *dwelling* or *accessory structure* is wholly contained within the pool barrier or enclosure, alarms shall be provided at every door with direct access to the *swimming pool*.
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.

[NY] R328.4.2.8.1 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] R328.4.2.8.2 Multiple dwelling wall as a barrier. A wall or walls of a multiple dwelling may serve as part of the barrier, provided there is no direct access from the dwelling to the pool.

[NY] R328.4.2.9 Pool structure as barrier. Where an above-ground *swimming 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 R328.4.2.1 through R328.4.2.8. 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.
2. The ladder or steps shall be surrounded by a barrier which meets the requirements of Sections R328.4.2.1 through R328.4.2.8.

[NY] R328.4.3 Indoor swimming pool. Walls surrounding an indoor *swimming pool* shall comply with Section R328.4.2.8.

[NY] R328.4.4 Prohibited locations. Barriers shall be located so as to prohibit permanent *structures*, equipment or similar objects from being used to climb the barriers.

[NY] R328.5 Suction entrapment avoidance. *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] R328.5.1 Suction Fittings. *Swimming pool* and *spa suction outlets* shall have a cover that conforms to ANSI/APSP/ICC 16.

Exception: Surface skimmers.

[NY] R328.6 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, 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] R328.6.1 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] R328.6.2 Alarm activation. Pool alarms shall activate upon detecting entry into the water and shall sound poolside and inside the *dwelling* where it is monitored.

[NY] R328.6.3 Prohibited alarms. The use of personal immersion alarms shall not be construed as compliance with this section.

TOB CODE - Includes legislation through 03-07-2023

5.5.26

Swimming pools.

5.5.26.1

No property owner shall commence construction of any in-ground *swimming pool* or aboveground *swimming pool* with a capacity of over 5,000 gallons on any property before obtaining a permit from the Department of Planning and Development. Said permit application shall be accompanied by plans indicating the width, length and depth of such *swimming pool*. In addition, a survey of the property upon which the *swimming pool* is to be located shall be filed with the application, and said survey shall specifically indicate the location of the proposed *swimming pool*, including all related deck area, fencing, landscaping, lighting and mechanical equipment. The *applicant* may be required to furnish complete plans, data and specifications regarding the pool if necessary to enable the Department of Planning and Development to evaluate the *structure*.

5.5.26.2

No portion of any *swimming pool* permitted by this chapter shall be located closer than five feet to any *lot line* or the minimum *accessory building* setback, whichever is greater. On a *corner lot* or a *double frontage lot*, the *swimming pool* shall comply with the *front yard setback* along all *street frontages*. The Department of Planning and Development may increase the setback requirements for a pool installed to serve a multifamily or nonresidence use.

5.5.26.3

Spill-offs and drainage from any *swimming pool* shall be controlled in a method approved by the Department of Planning and Development. Spill-offs and drainage shall not be permitted to flow onto adjacent property or roadways. Pool water shall be directed to flow into a drainage system designed to prevent erosion and to properly dissipate pool chemicals.

5.5.26.4

Fencing and screening. Adequate *fencing* shall be provided to completely enclose the outer perimeter of any pool or the perimeter of the *yard* in which the pool is situated, in accordance with applicable law. A *building* may serve as part of the *fence* enclosure, provided that such *building* complies with state and Town *swimming pool* enclosure regulations (including, but not necessarily limited to, self-closing, self-latching, lockable devices on any doors providing access to the pool enclosure). The *fencing* shall be located at least five feet from the pool edge, unless attached to any aboveground pool. *Fences* shall be constructed of metal, wood or other similar durable material, and shall contain no openings or projections which would be sufficient for climbing, as determined by the Department of Planning and Development. *Fences* shall be at least four feet but not more six feet above grade, shall be no more than one inch from the ground at the bottom at any location and shall be supported by posts that are no more than eight feet on center. All gates must be equipped with a self-closing, self-latching device located on the inside of the gate or door. Removable and/or hinged lockable ladders may be a sufficient substitute for fencing for aboveground circular pools only.

[Amended 7-22-2003 by L.L. No. 7-2003]

5.5.26.5

Any lights illuminating *swimming pools* shall be directed so as to eliminate direct rays of light on neighboring *streets* and properties. The filter pump and electrical switch, and other mechanical equipment, shall be in a vented enclosure or screened with dense evergreen planting, and shall comply with required setbacks for *accessory buildings* or required pool setback, whichever is greater.