

**Chapter 114**

**SWIMMING POOLS, SPAS AND HOT TUBS**

**§ 114-1. Purpose.**

**§ 114-2. Definitions.**

**§ 114-3. Swimming Pools.**

**§ 114-4. Spas and Hot Tubs.**

**§ 114-5. Barrier Requirements.**

**§ 114-6. Entrapment Protection for Swimming Pool and Spa Suction Outlets.**

**§ 114-7. Swimming Pool and Spa Alarms.**

**§ 114-8. Regulations.**

**§ 114-9. Construction and use permits.**

**§ 114-10. Water use.**

**§ 114-11. Prerequisites for permits.**

**§ 114-12. Enforcement.**

**§ 114-13. Penalties for offenses.**

**§ 114-14. Variances.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Cold Spring 8-10-71 as L.L. No. 4-1971. Amendments noted where applicable. ]**

**GENERAL REFERENCES**

Water - See Ch. 130.

Zoning - See Ch. 134.

**§ 114-1. Purpose.**

The Board of Trustees recognizes that the regulation of the establishment, construction, maintenance and operation of private Swimming Pools is a matter of public importance, primarily as it concerns the problems of safety and also the minimizing of any possible nuisance resulting from noise, odors, overflowing waters, improper maintenance and the possible depreciation of property values by reason of improperly installing or maintaining Swimming Pools in undesirable locations. This Chapter shall be read and construed having regard to the foregoing statement of purposes.

**§ 114-2. Definitions.**

As used in this Chapter, the following terms shall have the meanings indicated:

ABOVE-GROUND/ON-GROUND POOL - See "Swimming Pool".

BARRIER, PERMANENT - A Fence, wall, building wall or combination thereof, which completely surrounds the Swimming Pool and obstructs access to the swimming pool.

BARRIER, TEMPORARY - An approved temporary Fence, permanent Fence, the wall of a permanent structure, any other structure, or any combination thereof that 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.

FENCE - An enclosure maintained in good condition and constructed of chain link wire, woven wood, brick or stone or other similar materials, for the purpose of resisting any attempt by children or animals to enter the pool area.

HOT TUB - See "Swimming Pool"

IN-GROUND POOL - See "Swimming Pool".

SPA, NONPORTABLE - See "Swimming Pool".

SPA, PORTABLE - A non-permanent structure intended for recreational bathing in which all controls, water-heating and water-circulating equipment are an integral part of the product.

SUBSTANTIAL DAMAGE - For the purpose of determining compliance with the pool alarm provisions of this Chapter, 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 fifty (50)% 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 Chapter, any repair, alteration, addition or improvement of a Swimming Pool, the cost of which equals or exceeds fifty (50)% 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.

**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 twenty-four (24) inches deep at any point. This includes In-Ground, Above-Ground and On-Ground Pools; Indoor Pools; Hot Tubs; Spas; and fixed-in-place wading pools.

**SWIMMING POOL, INDOOR** - A Swimming Pool which is totally contained within a structure and surrounded on all four (4) sides by the walls of the enclosing structure.

**SWIMMING POOL, OUTDOOR** - Any Swimming Pool which is not an Indoor Pool.

**SWIMMING POOL, PERMANENT** - Any private Swimming Pool of permanent construction used by any person for swimming, diving, recreational bathing or wading.

**SWIMMING POOL, PORTABLE** - Any above-surface-type private Swimming Pool, not stationary or fixed, capable of being removed for storage and used by any person for swimming, diving, recreational bathing or wading.

### **§ 114-3. Swimming Pools.**

- A. In-Ground Pools. In-Ground Pools shall be designed and constructed in conformance with reference standard ANSI/NSPI-5 entitled Standard for Residential In-ground Swimming Pools.
- B. Above-Ground and On-Ground Pools. Above-Ground and On-Ground Pools shall be designed and constructed in conformance with reference standard ANSI/NSPI-4 entitled Standard for Above-ground/On-ground Residential Swimming Pools. If On-Ground or Above-Ground pools are constructed with decks or have a deck added, a building permit shall be required for construction of said deck, and said deck must comply with state and local requirements.

### **§ 114-4. Spas and Hot Tubs.**

- A. Permanently installed Spas and Hot Tubs. Permanently installed Spas and Hot Tubs shall be designed and constructed in conformance with reference standard ANSI/NSPI-3 entitled Standard for Permanently Installed Residential Spas.
- B. Portable SPAs and Hot Tubs. Portable Spas and Hot Tubs shall be designed and constructed in conformance with reference standard ANSI/NSPI-6 entitled Standard for Residential Portable Spas.

**§ 114-5. Barrier Requirements.**

- A. Application. The provision of this Chapter shall control the design of barriers for residential Swimming Pools, Spas and Hot Tubs. These design controls are intended to provide protection against potential drownings and near-drownings by restricting access to Swimming Pools, Spas, and Hot Tubs.
- B. Temporary Barriers. An Outdoor Swimming Pool, including an In-Ground, Above-Ground or On-Ground Pool, Hot Tub or Spa shall be surrounded by a Temporary Barrier during installation or construction which shall remain in place until a Permanent Barrier in compliance with this section is provided.
  - (1) Height. The top of the Temporary Barrier shall be at least forty-eight (48) inches above grade measured on the side of the barrier which faces away from the Swimming Pool.
  - (2) Replacement by a Permanent Barrier. A Temporary Barrier shall be replaced by a complying Permanent Barrier within either of the following periods:
    - (a) Ninety (90) days of the date of issuance of the building permit for the installation or construction of the Swimming Pool; or
    - (b) Ninety (90) days of the date of commencement of the installation or construction of the Swimming Pool.
  - (3) Replacement extension. Subject to the approval of the Code Enforcement Officer, the time period for the completion of the Permanent Barrier may be extended for good cause, including, but not limited to, adverse weather conditions delaying construction.
  - (4) Exceptions:
    - (a) Above-Ground or On-Ground Pools where the pool structure is the barrier in compliance with this section.
    - (b) Spas or Hot Tubs with a safety cover which complies with ASTM F 1346 entitled Standard Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot

Tubs 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 is permitted during periods when at least one (1) person engaged in the installation or construction is present.

C. Outdoor Swimming Pool. An Outdoor Swimming Pool, including an In-Ground, Above-Ground or On-Ground Pool, Hot Tub or Spa shall be surrounded by a barrier which shall comply with the following:

- (1) The top of the barrier shall be at least forty-eight (48) inches above grade measured on the side of the barrier which faces away from the Swimming Pool. The maximum vertical clearance between grade and the bottom of the barrier shall be two (2) inches measured on the side of the barrier which faces away from the Swimming Pool. Where the top of the pool structure is above grade, such as an Above-Ground Pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall not exceed four (4) inches.
- (2) Openings in the barrier shall not allow passage of a four (4) inch diameter sphere.
- (3) Solid barriers which do not have openings, such as masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.
- (4) Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than forty-five (45) inches, the horizontal members shall be located on the Swimming Pool side of the Fence. Spacing between vertical members shall not exceed one and three quarters ( $1 \frac{3}{4}$ ) inches in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed one and three quarters ( $1 \frac{3}{4}$ ) inches in width.
- (5) Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is forty-five (45) inches or more, spacing between vertical members shall not exceed four (4) inches. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed one and three quarters ( $1 \frac{3}{4}$ ) inches in width.
- (6) Maximum mesh size for chain link Fences shall be two and one quarter ( $2 \frac{1}{4}$ ) inch square unless the Fence has slats fastened at the top or the bottom which reduce the openings to not more than one and three quarters ( $1 \frac{3}{4}$ ) inches.

- (7) Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more than one and three quarters (1 3/4) inches.
- (8) Gates shall comply with the above requirements, and with the following requirements:
  - (a) All gates shall be self-closing. In addition, if the gate is a pedestrian access gate, the gate must open outward, away from the pool.
  - (b) 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 forty (40) inches above grade. In addition, if the latch handle is located less than fifty-four (54) inches from the bottom of the gate, the latch handle shall be located at least three (3) inches below the top of the gate, and neither the gate nor the barrier shall have any opening greater than one half (1/2) inch within eighteen (18) inches of the latch handle.
  - (c) 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 is not supervised.
- (9) Where a wall of a dwelling serves as part of the barrier, one (1) of the following conditions shall be met:
  - (a) The pool shall be equipped with a powered safety cover in compliance with ASTM F 1346 entitled Standard Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs; or
  - (b) Doors with direct access to the pool through that wall shall be equipped with an alarm which 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 seven (7) seconds and sound continuously for a minimum of thirty (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 fifteen (15) seconds. The deactivation switch(es) shall be located at least fifty-four (54) inches above the threshold of the door; or
  - (c) Other means of protection, such as self-closing doors with self-latching devices, shall be acceptable so long as the degree of protection afforded is not less than the protection afforded by § 114-5 C (9)(a) or § 114-5 C (9)(b) described above.

(10) Where an Above-Ground Pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps:

- (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 barrier which meets the requirements of § 114-5 C (1) through § 114-5 C (9) above.

D. Indoor Swimming Pool. Walls surrounding an Indoor Swimming Pool shall comply with § 114-5 C (9).

E. Prohibited locations. Barriers shall be located to prohibit permanent structures, equipment or similar objects from being used to climb them.

F. Barrier exceptions. Spas or Hot Tubs with a safety cover which complies with ASTM F 1346 entitled Standard Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs., as listed in § 114-7, shall be exempt from the provisions of this Chapter.

#### **§ 114-6. Entrapment Protection for Swimming Pool and Spa Suction Outlets.**

A. General. 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.

- (1) Compliance alternative. Suction outlets shall be designed and installed in accordance with ANSI/APSP-7 entitled Standard for Suction Entrapment Avoidance in Swimming Pools, Wading Pools, Spas, Hot Tubs, and Catch Basins.

B. Suction fittings. Pool and Spa suction outlets shall have a cover that conforms to ANSI/ASME A112.19.8 entitled Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, and Hot Tubs, or an eighteen (18) inch x twenty-three (23) inch drain grate or larger, or an approved channel drain system.

Exception: Surface skimmers

C. 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 (1) 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.

D. Dual drain separation. Single or multiple pump circulation systems have a minimum of two (2) suction outlets of the approved type. A minimum horizontal or vertical distance of three (3) feet 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.

E. Pool cleaner fittings. Where provided, vacuum or pressure cleaner fitting(s) shall be located in an accessible position(s) at least six (6) inches and not more than twelve (12) inches below the minimum operational water level or as an attachment to the skimmer.

#### **§ 114-7. Swimming Pool and Spa alarms.**

A. Applicability. A Swimming Pool or Spa installed, constructed or Substantially Modified after December 14, 2006, shall be equipped with an approved alarm system.

Exceptions:

- (1) A Hot Tub or Spa equipped with a safety cover which complies with ASTM F1346 entitled Standard Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs.
- (2) A Swimming Pool (other than a Hot Tub or Spa) equipped with an automatic power safety cover which complies with ASTM F1346 entitled Standard Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs.

Pool alarms shall comply with ASTM F2208 entitled Standard Specification for Pool Alarms, and shall be installed, used and maintained in accordance with the manufacturer's instructions and this section.

B. 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 (1) pool alarm shall be provided.

C. Alarm activation. Pool alarms shall activate upon detecting entry into the water and shall sound poolside and inside the dwelling.

D. Prohibited alarms. The use of personal immersion alarms shall not be construed as compliance with this section.



**§ 114-8. Regulations.**

Swimming Pools, Spas and Hot Tubs shall each be a permitted accessory use in an R-1 and R-3 Zoning District, or on the lot of a single-family house in another Zoning District, subject to the following provisions and restrictions:

- A. The use of Swimming Pools, Spas and Hot Tubs shall be limited to use by residents of the premises and their guests, without charge for admission and not for the purpose of profit, and must be located on the same lot as an accessory use to the residence or dwelling thereon.
- B. No Swimming Pool, Spa or Hot Tub shall be constructed or installed unless the said Swimming Pool, Spa or Hot Tub and all appurtenances, apparatus and equipment to be used in connection with said pool, shall be at least five (5') feet away from any side lot line, not less than ten (10') feet away from any rear lot line and at least five (5') feet away from the main building.
- C. The water in every Swimming Pool, Spa or Hot Tub shall be maintained and treated in a manner sufficient to maintain bacterial standards established by any and all applicable provisions of law relating to public Swimming Pools existing in the County of Putnam.
- D. No floodlighting or any other lights installed in connection with any Swimming Pool, Spa or Hot Tub shall throw rays of light beyond the property lines of the parcel upon which such Swimming Pool, Spa or Hot Tub is located.
- E. Swimming Pools, Spas or Hot Tubs are not permitted in the front yard on any parcel in any Zoning District.

**§ 114-9. Construction and use permits.**

- A. No Swimming Pool, Spa or Hot Tub shall be erected or used upon any parcel of property in the Village of Cold Spring until a building permit application has been made to and approved by the Code Enforcement Officer and the required fees paid.
- B. The fee for the erection permit and annual renewal permit shall be found in the Master Fee Schedule. The fee amount may be amended from time to time by the Village Board of Trustees by adopting a resolution setting the fee schedule.
- C. There shall be no charge or fee for Swimming Pool, Spas or Hot Tubs in existence at the time this Chapter is adopted, provided the owner complies with the provisions of § 114-3 and further files with the Code Enforcement Officer a sworn statement that such pool was in existence prior to the date hereof. In default thereof, the owner shall be required to apply for an erection and use permit and comply in all respects

with this Chapter, except that any preexisting Swimming Pool, Spa or Hot Tub will not have to be moved to comply with setback requirements because of the terms of this Chapter alone.

**§ 114-10. Water use.**

Any such Swimming Pool, Spa or Hot Tub which shall hold in excess of five thousand (5,000) gallons of water, shall be subject to the approval of the Village Board, and the application for the permit to erect or use same shall be referred by the Code Enforcement Officer to the Board of Trustees. Even though a permit may be granted for any such Swimming Pool, Spa or Hot Tub, the Board of Trustees reserves the right to withhold the use of Village water for the filling of said Swimming Pool, Spa or Hot Tub whenever it deems necessary or advisable for the preservation and good of the water supply and water supply system and facilities of the Village of Cold Spring. The cost of water from the Village water supply for filling any such pool shall be determined from time to time by resolution of the Board of Trustees of the Village of Cold Spring and may be amended from time to time by resolution.

**§ 114-11. Prerequisites for permits.**

- A. A building permit application shall be made for the erection and/or use of any Swimming Pool, Spa or Hot Tub on forms supplied by the Code Enforcement Officer on which the applicant shall supply such information requested by the Code Enforcement Officer. In all cases there shall be attached to the application a sketch or, when required by the Code Enforcement Officer, a survey by a New York licensed surveyor or engineer, showing the location of the Swimming Pool, Spa or Hot Tub and the design and dimensions of the Swimming Pool, Spa or Hot Tub, together with all specifications for the handling of the supply of water, sanitary facilities, drainage systems, filtering system and safety precautions. Such application and plans shall have affixed thereto the signature of the owner of the premises or the agent of the owner, duly authorized to act for said owner, in writing.
- B. Upon completion of the erection of any type of Swimming Pool, Spa or Hot Tub, the applicant for the erection permit shall apply to the Code Enforcement Officer for a use permit. The Code Enforcement Officer shall inspect the Swimming Pool, Spa or Hot Tub, and upon satisfactory proof of its completion in accordance with this Chapter and any other applicable laws, ordinances or regulations applicable thereto, he/she shall issue a certificate of occupancy and use permit.

**§ 114-12. Enforcement.**

This Chapter shall be enforced by the Code Enforcement Officer of the Village, and in addition thereto he/she shall report all violations to the Village Board.

**§ 114-13. Penalties for offenses. [Amended 3-27-79 by L.L. No. 1-1979]**

Any person committing an offense against any of the provisions of this Chapter or Article, as the case may be, shall be guilty of a violation under the Penal Law and, upon conviction thereof, shall be punishable by a fine of not more than two hundred fifty dollars (\$250) or by imprisonment for not more than fifteen (15) days, or both. Each and every week that such violation continues shall constitute a separate violation. Nothing herein contained shall be construed to deprive the Village or its Board of Trustees of any other available remedy.

**§ 114-14. Variances.**

The Zoning Board of Appeals (ZBA) is hereby vested with jurisdiction to review and grant variances from the provisions herein, based upon considerations due to the lot size, terrain, or other factors. Such variance shall be in the nature of an area variance and governed by provisions set forth in New York State Village Law 7-712-b and Article VII of Chapter 134 of the Village Code.