

## **§NY1228.2. Swimming pool alarms.**

**§NY1228.2(a) Purpose.** This section is intended to implement the provisions of Executive Law section 378(14)(b), as added by Chapter 450 of the Laws of 2006, and Executive Law section 378(14)(c), as added by Chapter 75 of the Laws of 2007. (The provisions of Executive Law section 378(14)(c), as added by Chapter 234 of the Laws of 2007, are implemented by section 1228.4 (Temporary swimming pool enclosures) of this Part.)

**§NY1228.2(b) Definitions.** For the purposes of this section, the following words and terms shall have the following meanings:

§NY1228.2(b)(1) The word "approved" means approved by the code enforcement official responsible for enforcement and administration of the Uniform Code as complying with and satisfying the purposes of this section.

§NY1228.2(b)(2) The term "commercial swimming pool" means any swimming pool (as defined in paragraph (4) of this subdivision) that is not a residential swimming pool (as defined in paragraph (3) of this subdivision).

§NY1228.2(b)(3) The term "residential swimming pool" means a swimming pool (as defined in paragraph (4) of this subdivision) which is situated on the premises of a detached one-or two-family dwelling not more than three stories in height with separate means of egress; a multiple single-family dwelling (townhouse) not more than three stories in height with separate means of egress; a one-family dwelling converted to a bed and breakfast; a community residence for 14 or fewer mentally disabled persons, operated by or subject to licensure by the Office of Mental Health or the Office of Mental Retardation and Developmental Disabilities; a one-or two-family dwelling operated for the purpose of providing care to more than two but not more than eight hospice patients, created pursuant to Article 40 of the Public Health Law, and defined as a hospice residence in section 4002 of said Law; a manufactured home; a mobile home; or a factory manufactured dwelling unit.

§NY1228.2(b)(4) The term "swimming pool" means 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 24 inches (610 mm) 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.

§NY1228.2(b)(5) The term "substantial damage" means 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.

§NY1228.2(b)(6) The term "substantial modification" means any repair reconstruction, rehabilitation, 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 repair, rehabilitation, addition, or improvement is started. If a swimming pool has sustained substantial damage, any repairs are considered to be a substantial modification regardless of the actual repair work performed.

**§NY1228.2(c) Pool alarms.** Except as otherwise provided in subdivision (e) of this section, each residential swimming pool installed, constructed or substantially modified after December 14, 2006 and each commercial swimming pool installed, constructed or substantially modified after December 14, 2006 shall be equipped with an approved pool alarm which:

§NY1228.2(c)(1) is capable of detecting a child entering the water and giving an audible alarm when it detects a child entering the water;

§NY1228.2(c)(2) is audible poolside and at another location on the premises where the swimming pool is located;

§NY1228.2(c)(3) is installed, used and maintained in accordance with the manufacturer's instructions;

§NY1228.2(c)(4) is classified by Underwriters Laboratory, Inc. (or other approved independent testing laboratory) to:

(i) reference standard ASTM F2208, entitled "Standard Specification for Pool Alarms," as adopted in 2002 and editorially corrected in June 2005, published by ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428, or

(ii) reference standard ASTM F2208, entitled "Standard Specification for Pool Alarms," as adopted in 2007, published by ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428; and

§NY1228.2(c)(5) is not an alarm device which is located on person(s) or which is dependent on device(s) located on person(s) for its proper operation.

**§NY1228.2(d) Multiple pool alarms.** A pool alarm installed pursuant to subdivision (c) of this section 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 installed.

**§NY1228.2(e) Exemptions.**

§NY1228.2(e)(1) A hot tub or spa equipped with a safety cover classified by Underwriters Laboratory, Inc. (or other approved independent testing laboratory) to reference standard ASTM F1346 (2003), entitled "Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs," published by ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428, shall be exempt from the requirements of subdivisions (c) and (d) of this section.

§NY1228.2(e)(2) Any swimming pool (other than a hot tub or spa) equipped with an automatic power safety cover classified by Underwriters Laboratory, Inc. (or other approved independent testing laboratory) to reference standard ASTM F1346 (2003), entitled "Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs," published by ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428, shall be exempt from the requirements of subdivisions (c) and (d) of this section.