

Board of Appeals

December 7, 2023

Members Present: Clay Dietrich, Kevin Bartram, Mike Wild

Members Absent: Brian Berg, Justin Schoenberg, Dave Obermiller

Others Present: Chris Rose, Alissa Farol Czapiewski, Ryan Erickson, Laura Langdahl, Bryant Doschadis, Michelle Lemar

Chairperson Clay Dietrich called the meeting to order at 9:30am

Kevin Bartram made a motion to approve the minutes from May 4, 2023, seconded by Clay Dietrich. No one was in opposition and the motion was declared carried.

There was no unfinished business.

New Business

A. International Property Maintenance Code Amendments

Chris Rose, Assistant Director, spoke about past issues regarding code enforcement of pool fencing. She read the Proposed Pool Fencing Requirement Amendments to the IPMC:

303.2.1 Fence or Barrier height and clearances. Barrier heights and clearances shall be in accordance with all the following:

1. The top of the barrier shall be not less than 48 inches above grade where measured on the side of the barrier that faces away from the pool or spa. Such height shall exist around the entire perimeter of the barrier and for a distance of 4 feet measured horizontally from the outside of the pool or spa to the inside of the required barrier.
2. The vertical clearance between grade and the bottom of the barrier shall not exceed 2 inches (51 mm) for grade surfaces that are not solid, such as grass or gravel, where measured on the side of the barrier that faces away from the pool or spa.
3. The vertical clearance between a surface below the barrier to a solid surface, such as concrete, and the bottom of the required barrier shall not exceed 4 inches (102 mm) where measured on the side of the required barrier that faces away from the pool or spa.
4. Where the top of the pool or spa structure is above grade, the barrier shall be installed on grade or shall be mounted on top of the pool or spa structure. Where the barrier is mounted on the top of the pool or spa, the vertical clearance between the top of the pool or spa and the bottom of the barrier shall not exceed 4 inches (102 mm).

303.2.2 Openings. Openings in the barrier shall not allow passage of a 4-inch-diameter (102 mm) sphere.

303.2.3 Solid barrier surfaces. Solid barriers that do not have openings shall not contain indentations or protrusions that form handholds and footholds, except for normal construction tolerances and tooled masonry joints.

303.2.4 Mesh fence as a barrier. Mesh fences, other than chain link fences in accordance with Section 303.2.7, shall be installed in accordance with the manufacturer's instructions and shall comply with the following:

1. The bottom of the mesh fence shall be not more than 1 inch (25 mm) above the deck or installed surface or grade.
2. The maximum vertical clearance from the bottom of the mesh fence and the solid surface shall not permit the fence to be lifted more than 4 inches (102 mm) from grade or decking.
3. The fence shall be designed and constructed so that it does not allow passage of a 4-inch (102mm) sphere under any mesh panel. The maximum vertical clearance from the bottom of the mesh fence and the solid surface shall not be more than 4 inches (102 mm) from grade or decking.
4. An attachment device shall attach each barrier section at a height not lower than 45 inches (1143 mm) above grade. Common attachment devices include, but are not limited to, devices that provide the security equal to or greater than that of a hook-and-eye-type latch incorporating a spring-actuated retaining lever such as a safety gate hook.
5. Where a hinged gate is used with a mesh fence, the gate shall comply with Section 303.3.
6. Patio deck sleeves such as vertical post receptacles that are placed inside the patio surface shall be of a nonconductive material.
7. Mesh fences shall not be installed on top of on-ground *residential* pools.

303.2.4.1 Setback for mesh fences. The inside of a mesh fence shall be not closer than 48 inches (1219 mm) to the nearest edge of the water of a pool or spa.

303.2.5 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 pool or spa 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 not exceed $1\frac{3}{4}$ inches (44 mm) in width.

303.2.6 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 not exceed 4 inches (102 mm). Where there are decorative cutouts within vertical members, the interior width of the cutouts shall not exceed $1\frac{3}{4}$ inches (44 mm).

303.2.7 Chain link dimensions. The maximum opening formed by a chain link fence shall be not more than 1³/₄ inches (44 mm). Where the fence is provided with slats fastened at the top and bottom which reduce the openings, such openings shall be not more than 1³/₄ inches (44 mm).

303.2.8 Diagonal members. Where the barrier is composed of diagonal members, the maximum opening formed by the diagonal members shall be not more than 1³/₄ inches (44 mm). The angle of diagonal members shall be not greater than 45 degrees (0.79 rad) from vertical.

303.2.9 Clear zone. Where equipment, including pool equipment such as pumps, filters and heaters, is on the same lot as a pool or spa and such equipment is located outside of the barrier protecting the pool or spa, such equipment shall be located not less than 36 inches (914mm) from the outside of the barrier.

303.2.10 Doors and gates. Doors and gates in barriers shall comply with the requirements of Sections 303.3.1 through 303.3.2 and shall be equipped to accommodate a locking device. Pedestrian access doors and gates shall open outward away from the pool or spa, shall be self-closing and shall have a self-latching device.

303.2.11 Double or multiple doors and gates. Double doors and gates or multiple doors and gates shall have not fewer than one leaf secured in place and the adjacent leaf shall be secured with a self-latching device.

303.2.12 Latch release. 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 above the finished floor or ground surface at residential pools and spas, not less 54 inches (1372 mm).
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 above the finished floor or ground surface at residential pools and spas, at not greater than 54 inches (1372 mm).
3. 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.

303.2.13 Barriers adjacent to latch release mechanisms. Where a latch release mechanism is located on the inside of a barrier, openings in the door, gate and barrier within 18 inches (457 mm) of the latch shall not be greater than 1/2 inch (12.7 mm) in any dimension.

303.2.14 Structure wall as a barrier. Where a wall of a dwelling or structure serves as part of the barrier and where windows having a sill height of less than 48 inches (1219 mm) above the indoor finished floor, doors and gates shall have an alarm that produces an audible warning when the window, door or their screens are opened. The alarm shall be *listed* and *labeled* as a water hazard entrance alarm in accordance with UL 2017.

Exception: An *approved* means of protection, such as self-closing doors with self-latching devices, is provided. Such means of protection shall provide a degree of protection that is not less than the protection afforded by an alarm that produces an audible warning when the window, door or their screens are opened.

303.2.15 On-ground residential pool structure as a barrier. An on-ground *residential* pool wall structure or a barrier mounted on top of an on-ground *residential* pool wall structure shall serve as a barrier where all the following conditions are present:

1. Where only the pool wall serves as the barrier, the bottom of the wall is on grade, the top of the wall is not less than 48 inches (1219 mm) above grade for the entire perimeter of the pool, the wall complies with the requirements of Section 303.2 and the pool manufacturer allows the wall to serve as a barrier.
2. Where a barrier is mounted on top of the pool wall, the top of the barrier is not less than 48 inches (1219 mm) above grade for the entire perimeter of the pool, and the wall and the barrier on top of the wall comply with the requirements of Section 303.2.
3. Ladders or steps used as means of access to the pool are capable of being secured, locked or removed to prevent access except where the ladder or steps are surrounded by a barrier that meets the requirements of Section 303.
4. Openings created by the securing, locking or removal of ladders and steps do not allow the passage of a 4-inch (102 mm) diameter sphere.
5. Barriers that are mounted on top of on-ground *residential* pool walls are installed in accordance with the pool manufacturer's instructions.

303.2.16 Natural barriers. In the case where the pool or spa area abuts the edge of a lake or other natural body of water, public access is not permitted or allowed along the shoreline, and required barriers extend to and beyond the water's edge not less than 18 inches (457 mm), a barrier is not required between the natural body of water shoreline and the pool or spa.

303.2.17 Natural topography. Natural topography that prevents direct access to the pool or spa area shall include but not be limited to mountains and natural rock formations. A natural barrier *approved* by the governing body shall be acceptable provided that the degree of protection is not less than the protection afforded by the requirements of Sections 303.2 through 303.5.

Clay had a question on (303.2.9) Clear Zone. He asked what the reasoning was for the proximity of the equipment that close to the fencing. That could create a design problem without a purpose. Chris said they will research and get back to the board.

Mike asked if this was just for residential properties. Chris responded with yes.

There was some discussion on the spacing requirement on chain link fence (303.2.7) as this would not be a standard size. Would require a custom made/ordered chain link fence with the purpose to prevent climbing. Maybe just stating standard chain link fence would be ok instead of requiring this specific size. Item worth further discussion and may be worth rewording it. Chris suggested doing more research and coming back to this. Chris said temporary pools sometimes have yards that already have chain link fences so this would need to be looked into.

Mike asked what the definition or dimensions of a pool would be; what would be the stepping point to call it a pool. Or maybe it's a volume. Looking for more clarification.

Clay asked about spas and with the hard covers. Some pools have hard covers. Has that been looked into at all. Some pools also have those hard covers, would that still require a fence.

Chris said we would include definition of pool, spa cover and chain link fence openings for the next review.

Clay made a motion for us to table this until clarifications are made to the questions and then look to approve at that time; seconded by Mike. No one was in opposition and the motion was declared carried.

Announcement: Mike's term is up so we are looking for a new Member. Recommendations would be greatly appreciated.

Clay called for a motion to adjourn the meeting, Mike motioned, seconded by Kevin. Motion carried.

Meeting adjourned at 9:57am

Respectfully submitted



Shawn Ouradnik
Board Secretary