

Title 5

HEALTH AND SAFETY

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Chapter 5.04

EMERGENCY AND DISASTER MANAGEMENT

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5.04.010 Purpose of provisions.

A. It is the intent and purpose of the ordinance codified in this chapter to establish an office that will insure the complete and efficient utilization of all of the town's facilities to combat attacks or other disasters as defined herein.

B. The Town of Essex's office of emergency management will be the coordinated agency for all activity in connection with civil defense; it will be the instrument through which the town manager may exercise the authority and discharge the responsibilities vested in him in Title 20, Section 6, VERMONT STATUTES ANNOTATED, as amended.

C. This chapter will not relieve any town department of the moral responsibilities or authority given to it in the Town Charter or by local ordinance, nor will it adversely affect the work of any volunteer agency organized for relief in disaster emergencies. (§ 1 of Ord. passed 10/20/86)

5.04.020 Definitions.

The following definitions shall apply in the interpretation of this chapter:

A. "Attack" means a direct or indirect assault against the Town of Essex, its government, its environs, or of the nation, by the forces of a hostile nation or the agents thereof, including assault by bombing, radiological, chemical or biological warfare, or sabotage.

B. "Director" means the town manager or his designated alternate duly appointed.

C. "Disaster" means and includes but is not limited to actual or threatened enemy attack, sabotage, extraordinary fire, flood, epidemic or other impending or actual emergency or calamity endangering or threatening to endanger health, life or property or constituted government.

D. "Emergency management" in its broad meaning is to carry out the basic government functions of maintaining the public peace, health and safety during an attack or disaster. This shall include plans and preparations for protection from, and relief, recovery and rehabilitation from, the effects of an attack on the town by the forces of an enemy nation or the agents thereof, and it shall also include such activity in connection with disaster as defined herein. It shall not, however, include any activity that is the primary responsibility of the military forces of the United States.

E. "Emergency management forces" means the employees, equipment and facilities of all town departments, boards, institutions and commissions, and, in addition, it shall include all volunteer personnel, equipment and facilities contributed by or obtained from volunteer persons or agencies.

F. "Emergency management volunteer" means any person duly registered, identified and appointed by the chairman of the office of emergency management and assigned to participate in the emergency management activity.

G. "Regulations" means and shall include plans, programs and other emergency procedures deemed essential to emergency management.

H. "Town chairperson" means the chairperson of the Town of Essex office of emergency management, appointed as prescribed in this chapter.

I. "Vice-chairperson" means assistant to the chairperson.

J. "Volunteer" means contributing a service, equipment or facilities to the civil defense organization without remuneration. (§ 2 of Ord. passed 10/20/86)

5.04.030 Membership and organization.

A. The town manager is hereby authorized and directed to create an organization for emergency management utilizing to the fullest extent the existing agencies within this town. The town manager, as executive head of the municipal government, shall be the director of the emergency management forces of this town, and shall be responsible for their organization, administration and operations.

B. The organization shall consist of the following:

1. An office of emergency management within the executive department of the town government and under the direction of the town manager. There shall be an executive head of the office of emergency management, who shall be known as the "town chairperson of emergency management"; there shall also be a vice-chairperson of emergency management, and such other assistants and other employees as are deemed necessary for the proper functioning of the organization;

2. The employees, equipment and facilities of town departments, boards, institutions and commissions will participate in the emergency management activity. Duties assigned to a town department shall be the same or similar to the normal duties of the department;

3. Volunteer persons and agencies offering service to, and accepted by, the town.

C. The emergency management director (town manager) shall appoint the town chairperson of the office of emergency management, who shall be a person well-versed and trained in planning operations involving the activities of many different agencies which will operate to protect the public health, safety and welfare in the event of danger from enemy action or disaster, as defined in this chapter.

D. The emergency management director (town manager) shall also appoint the vice-chairperson of the office of emergency management, who shall assist the chairperson in the above-described activities.

E. In the absence of the emergency management director (town manager), the emergency management chairperson shall assume the duties and authority of the director. In the absence of both the director and the chairperson, the vice-chairperson shall assume the duties and authority of the director. (§ 3 of Ord. passed 10/20/86)

5.04.040 Emergency powers—Town Manager.

A. The emergency management director may exercise the emergency power and authority necessary to fulfill his general powers and duties as defined in the Town Charter. The judgment of the emergency management director shall be the sole criterion necessary to invoke emergency powers. The town Selectboard may convene to perform their legislative and administrative powers as the situation demands, and shall receive reports relative to emergency management activities. Nothing in this chapter shall be construed as abridging or curtailing the powers or restrictions of the town Selectboard as defined in the Town Charter, and the Selectboard, by a majority vote, may overrule the declaration of an emergency as defined under this chapter.

B. During any period when disaster threatens or when the town has been struck by disaster, within the definition of this chapter, the town manager may promulgate such regulations as he deems necessary to protect life and property and preserve critical resources. Such regulations may include, but shall not be limited to, the following:

1. Regulations prohibiting or restricting the movement of vehicles in order to facilitate the work of emergency management forces, or to facilitate the mass movement of persons from critical areas within or without the town;

2. Regulations pertaining to the movement of persons from areas deemed to be hazardous or vulnerable to disaster;

3. Such other regulations necessary to preserve public peace, health and safety.

C. Regulations promulgated in accordance with the authority above will be given widespread circulation by proclamation published and uttered by newspaper and radio. These regulations will have the force of ordinance when duly filed with the town clerk.

D. The emergency management director shall order emergency management forces to the aid of other communities when required in accordance with the statutes of the state, and he may request the state, or a political subdivision of the state, to send aid to the Town of Essex in case of disaster, when conditions in the town are beyond the control of the local emergency management forces.

E. The emergency management director may obtain vital supplies, equipment and other properties found lacking and needed for the protection of health, life and property of the people, and bind the town for the fair value thereof.

F. The emergency management director may require emergency services of any town officer or employee. If regular town forces are determined inadequate, the director may require the services of such other personnel as he can obtain that are available, including citizen volunteers. All duly authorized persons rendering emergency services shall be entitled to the privileges and immunities as are provided by state law, the Town Charter and ordinances, for regular town employees and other registered and identified emergency management and disaster workers.

G. The emergency management director will exercise his ordinary powers as town manager and all of the special powers conferred upon him by the Town Charter and ordinances of the Town of Essex, all powers conferred upon him by any statute, or any other lawful authority. (§ 4 (part) of Ord. passed 10/20/86)

5.04.050 Emergency powers—Town Chairperson.

The town chairperson of the office of emergency management shall be responsible to the director in regard to all phases of the emergency management activity. Under the supervision of the director, he shall be responsible for the planning coordination. Under the supervision of the director, he shall

maintain liaison with the state and federal authorities and the authorities of other nearby political subdivisions as to insure the most effective operation of the emergency management plan. Unless contrary to custom or state statute, the chairperson shall be in charge, under the director, at the scene of any emergency in the Town of Essex. His duties shall include, but not be limited to, the following:

- A. Coordinating the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the town for emergency management purposes;
- B. Development and coordination of plans for the immediate use of all the facilities, equipment, manpower and other resources of the town for the purpose of minimizing or preventing damage to persons and property, and protecting and restoring to usefulness governmental services and public utilities necessary for the public health, safety and welfare;
- C. Negotiating and concluding agreements with owners or persons in control of buildings or other property, for the use of such buildings or other property, for the civil defense purposes, and designating suitable buildings as public shelters;
- D. Through public informational programs, educating the civilian populations as to actions necessary and required for the protection of their persons and property in case of enemy attack or disaster, as defined herein, either impending or present;
- E. Conducting public practice alerts to insure the efficient operation of the emergency management forces and to familiarize residents with emergency management regulations, procedures and operations;
- F. Coordinating the activity of all the public and private agencies engaged in an emergency management activity;
- G. Assuming such authority and conducting such activity as the director may direct, to promote and execute the emergency management plan. (§ 4 (part) of Ord. passed 10/20/86)

5.04.060 Emergency powers—Town Vice-Chairperson.

The vice-chairperson of the office of emergency management shall be responsible to the chairperson, and shall assist in the performance of the chairperson's duties. (§ 4 (part) of Ord. passed 10/20/86)

5.04.070 Unlawful acts designated.

It shall be unlawful for any person to violate any of the provisions of this chapter, regulations or plans issued pursuant to the authority contained herein, or to willfully obstruct, hinder or delay any member of the emergency management organization as herein defined in the enforcement of the provisions of this chapter, or any regulations or plan issued hereunder. (§ 5 of Ord. passed 10/20/86)

5.04.080 Violation—penalty.

Any person, firm or corporation violating any provisions of this chapter, or any rule or regulations formulated hereunder, shall be subject to legal action relating to applicable state and federal statutes. (§ 6 of Ord. passed 10/20/86)

Chapter 5.08

FIRE, BURGLAR AND EMERGENCY ALARMS

Sections:

5.08.010 Permit—requirements.

5.08.020 Permit—fees.

5.08.030 Failure to pay fees or comply—penalty.

5.08.040 Installation conditions.

5.08.050 Audible alarm restrictions.

5.08.060 Applicant—cost responsibilities.

5.08.070 Applicant—employee training.

5.08.080 Changes of location or equipment.

5.08.090 Applicant—response to alarm.

5.08.100 Response to alarms—liability limitations.

5.08.110 False alarms—designated—penalty.

5.08.120 Violation—penalty.

5.08.010 Permit—requirements.

Any person who shall be in possession of or in charge of any premises equipped to transmit a fire, burglary, holdup or other alarm to police headquarters by automatic device, either by direct leased phone line or by conventional phone line, shall first secure a permit therefore on a form of application as provided by the town. Said applicant shall provide information which details the premises protected, the type of alarm, the type of detection system in use, and the method of transmitting the alarm to police headquarters. No permit shall be required for an alarm system which does not transmit an alarm signal or notification to police headquarters or other Town of Essex facility. (§ 1 of Ord. passed 10/18/93: § 1 of Ord. passed 10/20/86)

5.08.020 Permit—fees.

Fees payable to the Town of Essex shall be in addition to any fees or costs mentioned in Section 5.08.060, and shall be set by the Selectboard. (§ 2 of Ord. passed 10/18/93: § 2 of Ord. passed 10/20/86)

5.08.030 Failure to pay fees or comply—penalty.

Failure to make prompt payment of fees required in connection with this application and permit, or failure to comply with Sections 5.08.010 and 5.08.020 above, within a reasonable time, may result in disconnection of the system and/or disregard of alarms received, after written notification, and penalties as provided by law in addition to those in Section 5.08.110. (§ 6 of Ord. passed 10/18/93: § 6 of Ord. passed 10/20/86)

5.08.040 Installation conditions.

The system installed must be of an approved type in good mechanical or electrical/electronic order so as to prevent false alarms being transmitted under normal circumstances. Alarms, which when activated, transmit a prerecorded voice message over the telephone line to police headquarters shall not be allowed. In addition, no alarm shall utilize an emergency “911” telephone line to transmit a signal. (§ 3 of Ord. passed 10/18/93: § 3 of Ord. passed 10/20/86)

5.08.050 Audible alarm restrictions.

Security alarms which are transmitted to police headquarters or any other monitoring location shall not also have an audible alarm on the premises. If an audible alarm is utilized, in violation of the foregoing without transmission capability, the owner shall be liable for any false alarm penalties consistent with the provisions of Section 5.08.110. Whether or not a permit is required, the chief of police, at his discretion, may order the disconnection of any audible alarm which is determined to be intrusive upon reasonable expectations of noise levels of property owners within the general vicinity of the audible alarm. This provision shall pertain to security alarms only and not to fire alarms. (§ 10 (part) of Ord. passed 10/18/93: § 10 of Ord. passed 10/20/86)

5.08.060 Applicant—cost responsibilities.

The applicant shall be solely responsible for any purchase fees, lease or rental fees, installation fees, maintenance costs, as may be required to be paid the equipment owner, sales agency, telephone company or any other persons or firms. (§ 5 of Ord. passed 10/18/93: § 5 of Ord. passed 10/20/86)

5.08.070 Applicant—employee training.

The owner must implement training and procedures as necessary to insure that false alarms are not transmitted by any employee or other authorized person who may lawfully have access to the premises during opening or closing or at any other time. (§ 4 of Ord. passed 10/18/93: § 4 of Ord. passed 10/20/86)

5.08.080 Changes of location or equipment.

The applicant shall provide the Town of Essex with any information, in writing, as may pertain to change of location of transmitter site, type of equipment change, contact persons and phone numbers during the life of the permit. (§ 8 of Ord. passed 10/18/93: § 8 of Ord. passed 10/20/86)

5.08.090 Applicant—response to alarm.

The applicant or representative shall respond to the site, when requested, to provide access, or to secure premises, when such response is deemed necessary by police or fire officials. (§ 9 of Ord. passed 10/18/93: § 9 of Ord. passed 10/20/86)

5.08.100 Response to alarms—liability limitations.

The Town of Essex shall not be responsible for any claims or losses resulting from the servicing of and response to any private emergency alarm systems, and at all times the town shall only respond to private emergency alarms in a manner determined to be in the best interest of the town. In the event several emergencies occur simultaneously, it shall be the duty of the police officer in charge to determine the response priorities; however, all activated alarm systems shall be responded to and a record made thereof. (§ 10 (part) of Ord. passed 10/18/93: § 11 of Ord. passed 10/20/86)

5.08.110 False alarms—designated—penalty.

A. For the purposes of this section, the term “false alarm” means the activation of any emergency alarm other than during a legitimate emergency or situation that could reasonably be perceived as a legitimate emergency.

B. For response to premises at which a false alarm occurs and at which no other false alarm has occurred within the preceding six (6)-month period, hereinafter referred to as a “first response,” no penalty shall be charged, but the person having or maintaining such alarm shall, within three working days after notice to do so, make a written report to the chief of police on forms prescribed by him setting forth the cause of such alarm, the corrective action taken, whether such alarm has been inspected by an authorized serviceman, and such other information as the chief of police may reasonably require to determine the cause of such false alarm and corrective action necessary.

C. For the second and third response to premises at which a false alarm occurs and within six months after a first response, no fee shall be charged, but a written report shall be required as for a first response, and the chief of police shall be authorized to inspect or cause to be inspected, after consultation with the owner, at the owner’s expense, the alarm system at such premises, prescribe necessary corrective action, and shall give notice to the person owning or maintaining such alarm system of the conditions and requirements of this section.

D. For a fourth and fifth response to premises at which a false alarm occurs and within six (6) months after the first response, and for the second and subsequent responses in any six (6)-month period thereafter, a fee of fifty dollars (\$50) shall be charged, and for all subsequent responses within six (6) months of the first response, a fee of seventy-five dollars (\$75) shall be charged, and if such fourth false alarm or any subsequent false alarm is as a result of failure to take necessary corrective action prescribed by the chief of police, the chief of police may order the disconnection of such alarm system, and it shall be unlawful to reconnect such alarm system until such corrective action is taken; provided, that no disconnection shall be ordered at any premises required by federal, state or local requirements or as otherwise required by town policies or regulations to have an alarm system in operation. In addition, in the event the person who shall be in possession or in charge of the emergency alarm shall not pay the penalty or penalties within thirty (30) days of notification, the chief of police shall order the disconnection of the alarm system until such time as all outstanding fees have been paid. In the event that the alarm system in question transmits a signal to a location other than police headquarters or other Town of Essex facility and said penalties are not paid within thirty (30) days of written notification, no disconnection shall be ordered however all police response to emergency alarms shall be discontinued until such time as all outstanding penalties are paid in full.

E. Notwithstanding the above provisions, no penalties shall be charged and no false alarms deemed to have occurred during the first thirty (30) days after the initial installation of, or additional modification to, any emergency alarm system. (§ 7 of Ord. passed 10/18/93: § 7 of Ord. passed 10/20/86)

5.08.120 Violation—penalty.

Any person who violates the provisions of this chapter may be fined as provided by law for municipal ordinance not to exceed one hundred dollars (\$100). Said fine shall be in addition to any penalty as described in Section 5.08.110. (§ 11 of Ord. passed 10/18/93: § 12 of Ord. passed 10/20/86)

Chapter 5.09

OPEN FIRES

Sections:

5.09.010 Purpose of provisions.

5.09.020 Burning permit requirements.

5.09.030 Permissible open burning.

5.09.040 Violation—Penalty.

5.09.010 Purpose of provisions.

It is the intent of the ordinance codified in this chapter to provide for the control of open fires to ensure the public's health, safety and welfare and to provide for the ability to collect penalties when this chapter is violated. (Ord. passed 6/17/96 (part))

5.09.020 Burning permit requirements.

A. Open fires of materials other than brush, grass, and natural unpainted, unstained, and untreated dimension lumber and wood products shall not be permitted. Materials such as tires, solid waste, composite materials, treated, painted or stained dimension lumbers, painted or stained, pressure treated materials or other materials are specifically prohibited from open fires.

B. Residents wishing to burn brush, grass, natural unpainted, unstained, untreated dimension lumber and wood products shall obtain a burning permit from the Town of Essex police department before burning. The times of burning will be allowed at the discretion of the fire warden and/or Town of Essex fire chief. There shall be no charge for a burning permit.

C. Individuals having burning permits must maintain control of the fire at all times and not allow its spread beyond their property lines. (Ord. passed 6/17/96 (part))

5.09.030 Permissible open burning.

A. Nothing contained herein shall prevent the Essex fire department from conducting live fire drills and training involving the burning of structures and fields, or motor vehicles. Written notification to adjoining property owners having a structure within a five-hundred-foot (500') radius of the proposed burn shall be provided at least six (6) weeks in advance. Property owners shall be given fourteen (14) days from receipt of the written information to appeal the decision of the fire department to burn the building, fields or motor vehicles to the Town of Essex Selectboard.

B. Nothing contained herein shall prevent the use of campfires, outdoor grills and fireplaces for recreation or preparing of food provided no public or private nuisance is created. (Ord. passed 6/17/96 (part))

5.09.040 Violation—Penalty.

A. Any person who violates a provision of this chapter shall be subject to a civil penalty of up to five hundred dollars (\$500) per day for each day that such violation continues, with a mandatory minimum civil penalty that shall not be less than the civil penalty set for that offense unless the person does not contest the municipal complaint and pays the waiver fee. Police officers, fire warden, deputy fire warden, fire chief and fire officers of the Town of Essex shall be authorized to act as issuing municipal officials to issue and pursue before the traffic and municipal ordinance bureau a municipal complaint.

B. An issuing municipal official is authorized to recover a waiver fee, in lieu of a civil penalty, for any person who declines to contest a municipal complaint and pays the following waiver amount for each violation:

First offense	\$25.00 plus fire department expense up to \$500.00
Second offense	\$50.00 plus fire department expense up to \$500.00
Third offense	\$100.00 plus fire department expense up to \$500.00
Fourth and subsequent offenses	\$200.00 plus fire department expense up to \$500.00

Offenses shall be counted on a calendar year basis.

C. An issuing municipal official is authorized to recover civil penalties in the following amounts for each violation:

First offense	\$50.00 plus fire department expense up to \$500.00 maximum.
Second offense	\$100.00 plus fire department expense up to \$500.00 maximum.
Third offense	\$200.00 plus fire department expense up to \$500.00 maximum.
Fourth and subsequent offenses	\$400.00 plus fire department expense up to \$500.00 maximum.

Offenses shall be counted on a calendar year basis.

D. Fire department expenses shall be as follows:

1. Pumper at one hundred dollars (\$100) per hour each;
2. Tanker at seventy-five dollars (\$75) per hour each;
3. Minimum of one (1) hour of pay for each firefighter responding to the call.

E. In addition to the enforcement procedures available before the traffic and municipal ordinance bureau, the town manager or designee is authorized to commence a civil action to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law. (Ord. passed 6/17/96 (part))

Chapter 5.16

LITTERING

Sections:

5.16.010 Unlawful littering or dumping activities.

5.16.020 Exemptions.

5.16.030 Violation—Evidence—Penalty.

5.16.010 Unlawful littering or dumping activities.

A person shall not throw, dump, deposit or cause to be thrown, dumped or deposited, bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, old automobiles or parts thereof, refuse of whatever nature, or any noxious thing, on lands of others or within three hundred feet (300') of the lands of others, public or private, or into the waters of this state, or on the shores or banks thereof, or on or within view of a public highway. (Ord. passed 6/3/96 (part): § 1 of Ord. passed 5/18/81)

5.16.020 Exemptions.

Nothing in this chapter shall be construed as affecting the operation of an automobile graveyard or junkyard, as defined in Section 2241, Title 24, Vermont Statutes, nor shall anything in this chapter be construed as prohibiting the installation and use of appropriate receptacles for solid waste provided by the state or towns. Sanitary landfills, recycling centers and incinerators maintained pursuant to Section 2202 of Title 24, and solid waste from mining, quarrying, farming operations are exempt from the restriction set forth above concerning the distance of three hundred feet and visibility from a public highway. (Ord. passed 6/3/96 (part): § 2 (part) of Ord. passed 5/18/81)

5.16.030 Violation—Evidence—Penalty.

A. A person who violates a provision of this chapter shall be subject to a civil penalty of up to five hundred dollars (\$500) per day for each day that such violation continues, with a mandatory minimum civil penalty that shall not be less than the civil penalty set for that offense unless the person does not contest the municipal complaint and pays the waiver fee. Police officers of the Town of Essex shall be authorized to act as issuing municipal officials to issue and pursue before the traffic and municipal ordinance bureau a municipal complaint.

1. An issuing municipal official is authorized to recover a waiver fee, in lieu of a civil penalty, for any person who declines to contest a municipal complaint and pays the following waiver amount for each violation:

First offense	\$ 25.00
Second offense	\$50.00
Third offense	\$100.00
Fourth and subsequent offenses	\$200.00

Offenses shall be counted on a calendar year basis.

2. An issuing municipal official is authorized to recover civil penalties in the following amounts for each violation:

First offense	\$ 50.00
Second offense	\$100.00
Third offense	\$200.00
Fourth and subsequent offenses	\$400.00

Offenses shall be counted on a calendar year basis.

3. In addition to the enforcement procedures available before the traffic and municipal ordinance bureau, the town manager or designee is authorized to commence a civil action to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law.

B. If the throwing, placing or depositing was done from a motor vehicle, except a motorbus, it shall be prima facie evidence that the throwing, placing or depositing was done by the driver of such motor vehicle. (Ord. passed 6/3/96 (part): § 2 (part) of Ord. passed 5/18/81)

Chapter 5.20

SWIMMING POOLS*

Sections:

5.20.010 Definitions.

5.20.020 Fences and walls—Required.

5.20.030 Access control not required when.

5.20.040 Above-ground pools—Requirements.

5.20.050 Above-ground pools—Location.

5.20.060 In-ground pools.

5.20.070 Barriers and lights during construction.

5.20.080 Violation—Penalty.

*Prior ordinance history: Ordinances passed 6/15/81 and 10/17/88.

5.20.010 Definitions.

For the purpose of this chapter:

A. "Above-ground pool" means any pool described in subsection C of this section which is not more than twelve (12) inches below the surrounding ground level.

B. "Below-ground pool" means any pool described in subsection C of this section which is more than twelve (12) inches below surrounding ground level and has a wall less than forty-two (42) inches in height above ground level.

C. "Pool" means and is described as any walled area greater than six (6) feet in diameter, containing twelve (12) inches or more of water, maintained out of doors for bathing, swimming or wading, and any such device or structure with a depth of twenty-four (24) inches or greater below ground level, whether or not any water is contained therein. (Ord. passed 6/3/96(part))

5.20.020 Fences and walls—Required.

No individual, partnership or corporation, public or private, shall construct or maintain a swimming pool without fence or walls, as further described herein, properly erected and maintained to prevent accidental access by any persons to such swimming pool, or access by minor children as described in the preamble to the ordinance codified in this chapter as "unaware by reason of lack of mature judgment,

inability to recognize danger to themselves, physically and otherwise to save themselves from such danger, as well as to other persons so restricted in judgment and physical limitations who may accidentally become exposed to such threat,” without climbing, burrowing or unlatching gates. (Ord. passed 6/3/96 (part))

5.20.030 Access control not required when.

Any reference herein to structures within five (5) feet of enclosure shall not pertain to homes or garages when used as one or more sides of the enclosure; however, access control as required by Section 5.20.020 must be provided for. (Ord. passed 6/3/96 (part))

5.20.040 Above-ground pools—Requirements.

Above-the-ground pools greater than twelve (12) inches and less than forty-two (42) inches in wall height shall meet the same requirements as below-ground pools. (Ord. passed 6/3/96 (part))

5.20.050 Above-ground pools—Location.

Above-ground pools forty-two (42) inches in wall height or higher shall be located so that a wall height of forty-two (42) inches is maintained above all points of land or solid objects, or structures within five feet (5) from any point of the perimeter of the pool. All ladders or steps shall be removed or elevated to forty-two (42) inches above ground when unattended and secured by a safety latch. (Ord. passed 6/3/96 (part))

5.20.060 In-ground pools.

A. In-the-ground pools shall be surrounded by a fence or wall at least forty-two (42) inches in height and equipped with a swinging or sliding gate which may not be unlatched from the outside without reaching over the gate into the enclosure.

B. Such fence or wall may have no openings which do not have one dimension which is less than three (3) inches. Such fence or wall shall be located at least four (4) feet from pool edge and maintained forty-two (42) inches minimum above the surrounding terrain or any structure or solid objects. (Ord. passed 6/3/96 (part))

5.20.070 Barriers and lights during construction.

No person may construct a below-ground pool without providing adequate barriers and lights at all times during construction. (Ord. passed 6/3/96 (part))

5.20.080 Violation—Penalty.

Any person who violates a provision of this chapter shall be subject to a civil penalty of up to five hundred dollars (\$500) per day for each day that such violation continues, with a mandatory minimum civil penalty that shall not be less than the civil penalty set for that offense unless the person does not contest the municipal complaint and pays the waiver fee. Police officers of the Town of Essex shall be authorized to act as issuing municipal officials to issue and pursue before the traffic and municipal ordinance bureau a municipal complaint.

B. An issuing municipal official is authorized to recover a waiver fee, in lieu of a civil penalty, for any person who declines to contest a municipal complaint and pays the following waiver amount for each violation:

First offense	\$25.00
Second offense	\$50.00
Third offense	\$100.00
Fourth and subsequent offenses	\$200.00

Offenses shall be counted on a calendar year basis.

C. An issuing municipal official is authorized to recover civil penalties in the following amounts for each violation:

First offense	\$50.00
Second offense	\$100.00
Third offense	\$200.00
Fourth and subsequent offenses	\$400.00

Offenses shall be counted on a calendar year basis.

D. In addition to the enforcement procedures available before the traffic and municipal ordinance bureau, the town manager or designee is authorized to commence a civil action to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law. (Ord. passed 6/3/96 (part))