

*Agreement attached*

BEING A BY-LAW TO REQUIRE THE ERECTION OF FENCES AND GATES AROUND PRIVATE OUTDOOR SWIMMING POOLS SUFFICIENT TO MAKE SUCH POOLS NOT READILY ACCESSIBLE TO SMALL CHILDREN.

WHEREAS the Council of the Corporation of TOWN OF CAPREOL deems it desirable to enact a By-Law to require owners of privately owned outdoor swimming pools to erect and maintain fences and gates around such swimming pools.

AND WHEREAS Section 354(1) of The Municipal Act, R.S.O. 1970, as amended, provides authority for passing such a by-law.

NOW THEREFORE the Council of the Corporation of TOWN OF CAPREOL

Hereby Enacts as follows:

1. DEFINITIONS:

- a. ENCLOSURE means a fence, wall or other structure including doors and gates, surrounding a privately owned outdoor swimming pool to restrict access thereto.
- b. PRIVATELY OWNED OUTDOOR SWIMMING POOL means any body of water located outdoors on privately owned property, contained in part or in whole by artificial means, in which the depth of the water at any point can exceed twenty-four (24) inches and used or capable of being used for swimming.
- c. SERVICE ENTRANCE means that entrance into a building which would normally be used by persons entering such building for the purpose of delivering goods or rendering maintenance service.
- d. OWNER includes a person in possession of the property on which the swimming pool is located.
- e. PERSON means any firm, corporation, partnership, individual or association.
- f. REGION means The Regional Municipality of Sudbury.
- g. DIRECTOR means The Director of Building Controls of the Regional Municipality of Sudbury or his designate.
- h. SWIMMING includes wading, bathing or diving.

- 2. No person shall erect a fence or gate for a swimming pool until plans for such fences and gates have been submitted to the Director and a permit certifying approval of such plans has been issued.
- 3. No person shall excavate for or erect a privately owned swimming pool without a certificate that approval of the plans for the fence and gates has been issued.
- 4. A permit may be refused if the fences or gates do not comply with any by-law.
- 5. No person shall place water in a privately owned outdoor

swimming pool or allow water to remain therein unless the enclosure prescribed by this by-law has been erected.

6. ENCLOSURES:

- a. The owner of a privately owned outdoor swimming pool shall erect and maintain an adequate enclosure surrounding the entire swimming pool area and sufficient to make such body of water not readily accessible to small children.
- b. Except as further provided in clause 6(c), such enclosure, including gates therein, shall extend from the ground to a height, measured on the outside of the enclosure, of not less than four (4) feet nor higher than six (6) feet.
- c. Where a wall of a building forms part of such enclosure, no main or service entrance to the building shall be located within the swimming pool area enclosure, except that this requirement shall not apply when the main entrances and all exterior service meters and intakes are located outside the enclosure and a sign is erected and maintained directing all service personnel to use the main entrance.
- d. Except as provided in (e)(vi)(2), such enclosure shall have no rails or other horizontal or diagonal bracing or attachments on the outside that would facilitate climbing.
- e. A fence of its equivalent forming part of such enclosure,
  - (i) shall be of vertically boarded wood construction, chain link construction or of other materials and construction as provided for in clause (e)(vi);
  - (ii) if of chain link construction, shall
    1. be of not greater than 1½ inch diamond mesh;
    2. be constructed of galvanized steel wire not less than No. 12 gauge, or of minimum 14 gauge steel wire covered with a vinyl or other approved coating, forming a total thickness equivalent to No. 12, gauge galvanized wire;
    3. be supported by at least 1½ inch diameter galvanized steel posts each covered by a minimum of two (2) inches of concrete from grate to a minimum of two (2) feet below grade, such posts to be spaced not more than ten (10) feet apart. Top and bottom horizontal rails shall be provided of 1½ inch minimum diameter galvanized steel, except that a 1/4 inch minimum diameter galvanized steel tension rod may be substituted for the bottom horizontal steel rail. A vinyl or other approved coating may be substituted for the galvanized coating.
  - (iii) if of wood construction, shall
    1. have the vertical boarding attached to supporting members all of which are arranged in such a manner so as not to facilitate climbing from the outside. Such vertical boards shall be not less than one inch by four inch nominal dimensions spaced not more than 1½ inches apart;
    2. be supported by a minimum of four inch square or four inch diameter cedar posts, nominal dimensions spaced not more than eight feet on centres

securely embedded to a minimum of two feet below grade. That portion of the wood post below grade shall be treated with a wood preservative. Top and bottom horizontal rails shall be provided of wood two inch by four inch minimum nominal dimensions;

- (iv) shall include no part consisting of barbed wire or having similar dangerous characteristics and no device for projecting an electric current through the fence;
- (v) shall be located not less than four feet from the swimming pool unless
  - (i) the required height of said fence, as prescribed in paragraph 6(b), is increased to six feet, and
  - (ii) a continuous hand hold is available along the edges of the pool for the purpose of providing in an emergency support for a person in the pool, and such fence shall not regardless of height, be located closer than four feet to any condition on the property that would contribute to the lessening of these minimum safety requirements by facilitating the climbing of the swimming pool fence.
- (vi) may be of construction other than that specified provided an equivalent degree of safety is maintained and shall
  - 1. be constructed so that the rigidity is equal to that specified for those fences described in clauses (e)(ii) or (iii);
  - 2. be permitted to have exposed structural or other members or parts thereof that may facilitate climbing the outside of the enclosure provided the minimum clear vertical distance between any such members, or parts thereof, is four feet and, regardless of the location of such members, where this minimum four foot vertical dimension is maintained the least dimension of any opening through such fence may be increased to not more than that required to prevent the passage of a spherical object having a diameter of four inches.
- f. Gates forming part of such enclosure shall
  - (i) be of construction and height equivalent to that required for the fence;
  - (ii) be supported on substantial hinges, and
  - (iii) be self-closing and equipped with a locking device and with a self-latching device placed at the top and on the inside of the gate such that the device latches when the gate is in the closed position.
- g. Subject to the provisions of Paragraph (c), doors providing access from a building directly to an enclosed swimming pool area, other than door located in a dwelling unit or rooming unit, shall each be self-closing and

equipped with a locking device and with a self-latching device located not less than five feet above the bottom of the door.

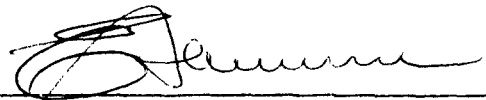
- h. The owner of every privately owned outdoor swimming pool shall ensure that every gate and door required by Paragraphs (f) and (g) to be equipped with a locking device shall be kept locked at all times if there is more than twenty-four inches of water in the pool and a responsible person is not present and supervising the pool.


7. AGREEMENT:

The Mayor and the Clerk are hereby authorized to execute an agreement or agreements from time to time with the Region authorizing the Region to administer the provisions of this by-law.

- 8. Any person convicted of a breach of any of the provisions of this by-law shall pay a penalty not exceeding, exclusive of costs, the sum of One Thousand (\$1,000.00) Dollars for each offence.

READ a FIRST, SECOND and THIRD time and passed in open Council  
this 10th day of April , 1978

  
\_\_\_\_\_  
Clerk

  
\_\_\_\_\_  
Mayor

THIS INDENTURE made in triplicate this 31st day of May  
1978.

B E T W E E N :

THE CORPORATION OF THE TOWN OF CAPREOL  
A Municipal Corporation pursuant to the laws of the  
Province of Ontario,

hereinafter called the "Town"  
OF THE FIRST PART

A N D

THE REGIONAL MUNICIPALITY OF SUDBURY

hereinafter called the "Region"  
OF THE SECOND PART

WHEREAS the Council of the Regional Municipality of  
Sudbury has passed a By-law Number 78-77 on the 26th day of  
April, 1978;

AND the By-law authorized the Region to enter into an  
Agreement with the Town of Capreol to administer, issue  
and enforce Swimming Pool Fencing regulations passed by the  
Town;

AND WHEREAS the Town has passed By-law Number 78-42  
being a By-law to require the erection and maintenance of  
fences and gates around private swimming pools sufficient to  
make such pools not readily accessible to small children;

AND pursuant to the provisions of the said By-law, and  
pursuant to Section 123 of The Regional Municipality of Sudbury  
Act, whereby agreements may be entered into between the Region  
and the Town for the use of services of the respective officers,  
employees and equipment, the Town authorizes the Region to  
administer and enforce the provisions of such by-laws.

Witnesseth as follows:

1. The Region agrees to administer By-law Number 78-42  
of the Town, as amended from time to time, being a by-law to  
require the erection and maintenance of fences and gates around

outdoor swimming pools sufficient to make such pools not readily accessible to small children, including the inspection and approval of plans for privately owned outdoor swimming pools, the issuance of permits certifying approval of such plans and the enforcement of the provisions of such a By-law.

2. The Town agrees to indemnify and save the Region harmless from any costs, claims, demands, suits, actions or judgements made, brought or recovered against the Region resulting from any act or omission by the Region, its agents and employees in the course of, as a result of and in connection with the administration and enforcement of the said By-law.

3. The Town further agrees that upon the requests of the Director of Building Controls of the Region from time to time to provide for manpower assistance in the administration and enforcement of the said By-law and such assistance shall include inspections, the gathering and dissemination of information with respect to the said By-law, the gathering of evidence for the purpose of enforcement and prosecutions as a result of the infractions of the provisions of the By-law and any other relevant matters as the Director of Building Controls deems fit.

4. This Agreement shall take effect upon its execution providing that either party may terminate this Agreement on giving to the other sixty (60) days written notice.

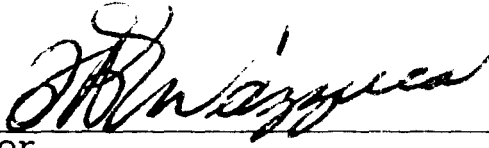
5. The parties further agree that this Agreement shall be terminated upon the enactment of any Provincial legislation that transfers the jurisdiction to pass by-laws to require owners to erect fences and gates around privately owned swimming pools to the Region.

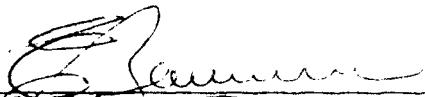
6. The parties hereby agree that any fee or charge levied against the applicants of permits for the issuance of permits pursuant to the provisions of the said By-law are to be collected by the Region and are and shall remain as monies belonging to the Region.

THIS AGREEMENT SHALL BE BINDING UPON THE PARTIES HERETO AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS.


IN WITNESS WHEREOF the parties hereto and hereunto placed their respective Corporate seals by the hands of the officers witnessed in that behalf.

THE CORPORATION OF THE TOWN OF CAPREOL

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Clerk

THE REGIONAL MUNICIPALITY OF SUDBURY

*Acting*   
\_\_\_\_\_  
Chairman

  
\_\_\_\_\_  
Regional Clerk

BY-LAW 78-77

BEING A BY-LAW OF THE REGIONAL MUNICIPALITY OF SUDBURY TO AUTHORIZE THE CHAIRMAN AND CLERK TO ENTER INTO AN AGREEMENT BETWEEN THE REGION AND THE TOWN OF CAPREOL TO PERMIT THE REGION, THROUGH ITS BUILDING CONTROLS DEPARTMENT, TO ADMINISTER, ISSUE AND ENFORCE SWIMMING POOL FENCING REGULATIONS


WHEREAS the Council of the Regional Municipality of Sudbury deems it desirable to enter into an agreement between the Region and The Town of Capreol to permit the Region, through its Building Controls Department, to administer, issue and enforce swimming pool fencing regulations;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE REGIONAL MUNICIPALITY OF SUDBURY HEREBY ENACTS AS FOLLOWS:

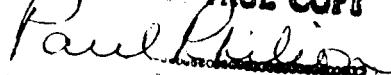
1. That the Chairman and Clerk be, and the same are hereby authorized to execute an agreement between the Region and the Town of Capreol to permit the Region, through its Building Controls Department, to administer, issue and enforce swimming pool fencing regulations.
2. That this by-law shall come into force and take effect immediately upon the final passing thereof.

READ THREE TIMES AND FINALLY PASSED IN OPEN COUNCIL this 26th day of April, 1978.

  
\_\_\_\_\_  
CHAIRMAN

  
\_\_\_\_\_  
CLERK

CERTIFIED A TRUE COPY

  
\_\_\_\_\_  
Clerk

SUDBURY \* ONTARIO

B E T W E E N :

THE REGIONAL MUNICIPALITY  
OF SUDBURY

A N D

THE TOWN OF CAPREOL

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A G R E E M E N T

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John J. Burns,  
Regional Solicitor,  
200 Brady Street,  
Sudbury, Ontario.