

#274 Regarding the Fencing of Private Lands

WHEREAS pursuant to paragraph 627(2) of the *Municipal Code of Québec*, R.S.Q., chapter C-27.1 and paragraph 113(15) of the *Act respecting land use planning and development*, R.S.Q., chapter A-19.1, councils of municipalities may pass by-laws in order to regulate the fencing of private lands along municipal roads within their jurisdiction;

AND WHEREAS the territory of the Municipality of Bristol contains numerous municipal roads;

AND WHEREAS the Council of the Municipality of Bristol wishes to adopt a by-law regarding the fencing of private lands along all municipal roads within its territory for security measures;

AND WHEREAS the Council of the Municipality of Bristol considers that it is in the interest of all citizens of the Municipality of Bristol that the present by-law (the By-law) be adopted and that the objectives of the By-law be accomplished;

AND WHEREAS a notice of motion has been given during a session of the Council of the Municipality of Bristol held on June 5, 2006 by Cr. Pirie;

THEREFORE IT IS MOTIONED BY CR. PIRIE AND THE COUNCIL OF THE MUNICIPALITY OF BRISTOL ENACTS AND ORDAINS AS FOLLOWS:

SECTION 1

The preliminary statements are a part of the By-law.

SECTION 2

The By-law may be cited as the "Fence By-law".

SECTION 3

Definitions:

"Enclosure" shall mean any fence, wall or other structure, doors and gates, surrounding a Private land along a Municipal road and intended to restrict access to the said Private land.

"Front yard" shall mean a yard extending across the full width of any Private land between the front lot line and the nearest wall of any building or structure on the Private land.

"Height" shall mean the distance measured from the exposed bottom of the enclosure (fence) to the top of same, a maximum of five feet (5'), not to exceed twelve inches (12") from the ground.

"Intersection" shall mean the area embraced within the prolongation or connection of the lateral boundary lines of the roadway of two or more Municipal roads which join one another at an angle.

"Municipal road" shall mean a road within the territory of the Municipality of Bristol.

"Municipality" shall mean the Municipality of Bristol.

"Owner" shall mean a person owning a Private land.

"Private land" shall mean a plot of land privately owned and situated along a Municipal road.

SECTION 4

The By-law shall apply throughout the whole of the Municipality.

SECTION 5

The By-law applies to all enclosures on Private lands regardless if these said enclosures have been built before the present By-law comes into force.

SECTION 6

No person shall erect, own or maintain, or cause or permit the erection or maintenance of any enclosure on a Private land except in conformity with the provisions of the By-law.

SECTION 7

No person shall erect an enclosure in a manner and at a location that obstructs pedestrian or vehicular traffic or creates a traffic hazard.

SECTION 8

The costs associated with the erection of an enclosure on a Private land are the sole responsibility of the Owner of the said Private land.

SECTION 9

The Municipality has and will not have any responsibility regarding the costs involved with the enclosing of Private lands.

SECTION 10

Subject to the other provisions of the By-law, every Owner of a Private land on which there is livestock must erect and, at all time maintain an enclosure around his Private land of a height of not less than 1.21 metres (4 feet) above the level of the ground, constructed of woven wire, or barbed wire, that will suitably confine animals under normal circumstances; and fastened to posts not more than 3.65 metres (12 feet) apart.

SECTION 11

No enclosure of a greater height than 1.21 metres (4 feet) shall be erected or caused to be erected or maintained or caused to be maintained in any Front yard. Where an enclosure is erected on a terrace in a Front yard, the height of such enclosure shall be calculated as the combined height of the enclosure and the terrace.

SECTION 12

No Owner shall erect and, at all time maintain an enclosure around his Private land more than 2.44 metres (8 feet) in height. This section shall not apply to any enclosure along any limit of a highway.

SECTION 13

All enclosures of a greater height than 1.21 metres (4 feet) built along Municipal roads must be at least 9.1 metres (30 feet) from the limit of any Intersection.

SECTION 14

Bushes, slopes, hedges or trees are not considered as enclosures or part of enclosures for the application of the By-law.

SECTION 15

No enclosure composed wholly or partly of barbed wire or other barbed material, shall be erected or caused to be erected or maintained or caused to be maintained, within the Municipality, however, barbed wire or other barbed material may be permitted along the top of any enclosure of a greater height than 2.14 metres (7 feet) enclosing land

used for commercial or industrial purposes, wherever such land does not abut land used for residential purposes, and the manner of affixing such barbed wire or other barbed material is approved by any police or municipal officer. This section shall not apply to barbed wire enclosures erected in agricultural areas for the purpose of confining livestock.

SECTION 16

No enclosure or attachment to an enclosure shall be used as a conductor of electricity unless the enclosure is located on agricultural lands that are in actual use for raising livestock and the enclosure or attachment:

1. Carries electricity of not more than 12 volts;
2. Is designed and installed only to contain livestock; and
3. Has signs installed on sections of the enclosure visible from Municipal roads and warning that the enclosure carries electricity.
4. Is of adequate height

SECTION 17

Any door or gate within an enclosure must have a locking mechanism which keeps livestock from crossing said door or gate unto Municipal roads. The doors or gates shall be at least as high as the enclosure, as strong as the enclosure, and supported by substantial hinges.

SECTION 18

No person shall leave open a door or gate of an enclosure or let down bars or otherwise make a gap in an enclosure, if this would permit livestock to run at large from a Private land surrounded by an enclosure.

SECTION 19

The maintenance of the enclosures built along Municipal roads is the responsibility of each and every Owner.

SECTION 20

No enclosure shall be maintained or caused to be maintained in a damaged or disrepaired state of condition by reason of fire, decay, lack of maintenance or otherwise.

SECTION 21

It is imperative that the enclosures must be maintained by their Owners in order to keep livestock from crossing said enclosures unto Municipal roads.

SECTION 22

The Municipality has and will not have any responsibility with respect to costs in connection with maintaining the enclosures along Municipal roads on its territory.

SECTION 23

The provisions of the By-Law shall not apply to any enclosure found on lands owned and in use by the Municipality or any Boards, Commissions or companies providing telephone, electric, water or gas service to the inhabitants of the Municipality.

SANCTIONS

SECTION 24

Any Owner who contravenes to one or many provisions of the By-law commits an infraction and is liable to a minimum fine of 200.00\$ for a first infraction if the said Owner is a natural person and of 400.00\$ subsequent infraction if the said Owner is a natural person .

Any Owner who contravenes to one or many provisions of the By-law commits an infraction and is liable to a minimum fine of 500.00\$ for a first infraction and of 1000.00\$ for a subsequent infraction if the said Owner is a legal person.

The maximum fine that can be imposed is of 1000.00\$ for a first infraction if the Owner is a natural person and of 2000.00\$ for a subsequent infraction if the Owner is a natural person.

The maximum fine that can be imposed is of 2000.00\$ for a first infraction if the Owner is a legal person and of 4000.00\$ for a subsequent infraction if the Owner is a legal person.

In any case, legal fees are not included.

Delays for the payment of fines and of fees imposed by this By-law are established by the *Code of penal procedure of Quebec*, R.S.Q. c. C-25.1. If an infraction persists during more than a day, the infraction committed each day constitutes a distinct infraction and the fines in the present section can be imposed for each day during which the infraction persists.

SECTION 25

The Municipality authorizes any police or municipal officer to take legal procedures against any Owner that commits an infraction and said officers may also give out infraction reports to said Owners. These officers are responsible for the enforcement of this By-law. Moreover, these officers may enter the premises of the Private land to investigate and verify the state of the enclosures.

SECTION 26

Notwithstanding the penal sanction, the Municipality can also apply for an order from the Superior Court pursuant to section 227 of the *Act respecting land use planning and development*, R.S.Q., chapter A-19.1 to assure compliance of the By-law.

SECTION 27

The By-law will come into force in accordance with the Law.