



NOTICE

SPECIAL MEETING: St. Mary's Municipal Council

PURPOSE: Fences Arbitration Committee

DATE: Thursday August 9, 2018

TIME: 1:00PM

PLACE: St. Mary's Municipality
Council Chambers, Sherbrooke, NS

Please Advise If Unable To Attend

Dated: Aug 3, 2018

Marvin MacDonald
CAO

Municipality of the District of St. Mary's

Special Meeting of Council

Thursday August 9, 2018

AGENDA

1. Call to Order
2. Roll Call
3. Fences Arbitration Committee
4. Adjournment

Municipality of the District of St. Mary's
Special Council Meeting
Monday, August 9th, 2018

Meeting, Date & Time:

The special meeting of the St. Mary's Municipal Council was called to order on Thursday, August 9th, 2018 at 1:00pm in the Council Chambers Sherbrooke, N.S.

Attending:

Warden Mosher
Deputy Warden Dort
Councillor Malloy
Councillor Findlay
Councillor Kaiser-Kirk
Councillor Smith
Councillor Baker

Also Attending:

Marvin MacDonald, CAO
Denise Sawlor, Municipal Clerk/Special Projects Coordinator

Fences Arbitration Committee

- There was a traffic accident in Stillwater involving a vehicle and horses kept at a nearby property. There were no human injuries but two horses are dead as a result of the accident.
- There was a discussion around the Municipalities role in such matters.
- The Fences and Detention of Stray Livestock Act (see attached) outlines the guidelines for the formation of a Fences Arbitration Committee.
- Marvin has had discussions with Adam Wile - NS Department of Agriculture, Kyle Pellerin – Enforcement Officer and Corporal MacLeod – Sherbrooke RCMP regarding the recent incident and the formation of a Fences Arbitration Committee.

On motion of Councillor Findlay and seconded by Deputy Warden Dort that a Fences and Arbitration Committee be formed.
Motion carried.

On motion of Deputy Warden Dort and seconded by Councillor Malloy that Warden Mosher be appointed to the Fences and Arbitration Committee and Councillor Findlay be appointed the alternate.
Motion carried.

- Marvin will send a letter regarding fencing to the property owner and animal owner involved in the recent traffic accident.

Adjournment

On Motion of Deputy Warden Dort there being no further matters of business, council adjourned at 1:31pm.

Recorded By
Municipal Clerk/Special Projects Coordinator

Approved By
Warden Mosher



Fences and Detention of Stray Livestock Act

CHAPTER 166

OF THE

REVISED STATUTES, 1989

amended 2002, c. 1, ss. 9-18

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An Act to Provide for Fences and Detention of Stray Livestock

Short title

1 This Act may be cited as the *Fences and Detention of Stray Livestock Act*. R.S., c. 166, s. 1.

Interpretation

2 In this Act,

- (a) "committee" means a fences arbitration committee;
- (b) "livestock" means cattle, sheep, swine, goats, horses, ponies, mules, ratites, farmed deer and game farm animals and any other livestock designated by the Minister;
- (c) "livestock farm" means that portion of land used for livestock, including land used for grazing purposes;
- (ca) "Minister" means the Minister of Agriculture and Fisheries;
- (d) "municipality" means a city, incorporated town or municipality of a county or district that is designated by the Governor in Council as a municipality for the purposes of this Act;
- (e) "non-livestock farm" means land upon which no livestock is maintained;
- (f) "owner" includes
 - (i) with respect to livestock, any person who has lawful custody of the livestock,
 - (ii) with respect to a farm, the person occupying or operating a farm. R.S., c. 166, s. 2; 2002, c. 1, s. 9.

Application

3 This Act applies to those municipalities that are designated by the Governor in Council as municipalities for the purposes of this Act and then only after a request has been made by the municipality to the Minister for such designation. R.S., c. 166, s. 3; 2002, c. 1, s. 10.

Fences arbitration committee

4 (1) There shall be established for each municipality a committee to be known as the fences arbitration committee consisting of one member for each municipality appointed by the Nova Scotia Federation of Agriculture and one member appointed by the council of the municipality.

(2) The member appointed by the council of a municipality pursuant to subsection (1) may be an employee of the municipality and shall be the chair of the committee.

(3) The Nova Scotia Federation of Agriculture and the council of the municipality shall each appoint an alternate member to serve on the committee when requested to do so by the member appointed by the council of the municipality or the Nova Scotia Federation of Agriculture, as the case may be.

(4) Two members of the committee constitute a quorum.

(5) The members of a committee hold office for a term of not more than four years.

(6) The members of a committee and the alternate members of the committee appointed pursuant to this Section may be paid remuneration, including reasonable expenses, by the municipality at such rates as the municipality may determine.

(7) Members of the committee and alternate members of the committee appointed pursuant to this Section shall be residents of the municipality for which the committee is established. 2002, c. 1, s. 11.

Fences

5 (1) The owner of a livestock farm shall build and maintain fences adequate to prevent his livestock from escaping from his farm.

(2) The owner of a non-livestock farm adjoining a livestock farm shall not plant or cultivate any crop other than hay or pasture that would constitute an enticement to livestock closer than eight feet to a fence built or maintained pursuant to subsection (1).

(3) When a livestock farm adjoins another livestock farm, the owners of those farms shall share in the costs of building and maintaining common fences in such proportions as may be agreed upon between them and, failing such agreement, in such proportions as the committee for the municipality in which the lands are situated shall determine pursuant to this Act.

(4) Subsection (3) shall not apply when one of the farms has been operated continuously as a non-livestock farm for a period of one year. R.S., c. 166, s. 5.

Disputes referred to committee

6 (1) A person who believes that an owner of a livestock farm has not complied with or is not complying with subsection 5(1), and where the person has complied with subsection 5(2), where applicable, or any owner of a livestock farm who is unable to reach an agreement with an owner of an adjoining livestock farm pursuant to subsection 5(3) may notify, in writing, the clerk of the municipality in which the land is located and the notification shall be accompanied by the fee determined by the municipality.

(2) When a clerk of a municipality receives a notification in writing pursuant to subsection (1), the clerk shall immediately refer the matter to the chair of the committee for that municipality who shall, within seven days,

convene the committee and provide an opportunity for any of the parties to make representations to the committee, unless, before the expiry of seven days, the chair is satisfied that in respect of the matter referred to the committee this Act has been or is being complied with or an agreement has been reached between the parties.

(3) With respect to a matter referred to a committee under this Section, the committee may, by order,

(a) determine the location, height and materials of construction of any fence;

(b) determine the manner of maintenance of a fence;

(c) direct the owner of a farm to construct or maintain any fence in accordance with this Act;

(d) determine the proportion of costs of building and maintaining any fences and common boundaries to be borne by each of the adjoining livestock farm owners pursuant to this Act;

(e) take any immediate action necessary including, but not limited to, the removal and boarding of livestock if it is determined there is a risk to the public, the livestock or property.

(4) Livestock removed pursuant to clause (3)(e) shall be returned only after the proper fences are constructed or maintained to the standard determined by the committee.

(5) Where any person fails to construct or maintain a fence or contribute to the costs of a fence after having been directed to do so by an order of the committee pursuant to this Section, the committee may cause the work so ordered to be done and, for that purpose, its agents and workers may enter upon any land and the costs shall be paid by the municipality in which the lands in respect of which the order was made are located and, where the person is the person assessed for the property on which the work is done, the costs paid by the municipality are a first lien on the property and may be collected in the same manner as municipal taxes.

(6) The costs incurred by a municipality with respect to any action taken pursuant to clause (3)(e) or subsections (4) or (5), including, but not limited to, the costs of constructing or maintaining fences performed by the municipality or its agents, the removal, boarding, sale of or returning of any livestock, may be recovered from the owner of the livestock by action initiated by the municipality in a court of law. 2002, c. 1, s. 12.

Title not affected

7 Subject to the lien referred to in subsection 6(5), nothing in this Act shall be construed to affect the title to the lands on which fences are erected. R.S., c. 166, s. 7; 2002, c. 1, s. 13.

Appeal from committee

8 Every person aggrieved by a decision of the committee made pursuant to subsections 6(3), (4) or (5) or any order or direction made by the committee may appeal to the Supreme Court of Nova Scotia and the decision of the court is final. 2002, c. 1, s. 14.

STRAY LIVESTOCK

Detention and sale of stray livestock

9 (1) Whenever any livestock strays onto the lands of a person and the ownership of the livestock is unknown, such person may detain the livestock.

(2) If not claimed by the owner within forty-eight hours, a person detaining stray livestock shall forthwith transmit to the municipal clerk an adequate description of the livestock that will enable the owner to recognize it together with an indication of the time and place of finding and the place where the livestock is detained.

(3) A municipal clerk who receives the information referred to in subsection (2) shall file a notice with a description of the livestock and post a copy thereof in his office and shall place the notice and description in two advertisements at least seven days apart from each other in a newspaper of general circulation in the municipality in which the livestock is detained.

(4) The last advertisement referred to in subsection (3) shall state that unless the livestock is previously claimed it shall be sold at a sale to be held after the expiration of a further seven days at the time and place indicated in the advertisement. R.S., c. 166, s. 9.

Claim, sale or disposal of stray livestock

10 (1) If the owner claims the livestock before the sale, he shall

(a) notify the clerk of the municipality and pay to him the cost of advertising; and

(b) pay to the person detaining the livestock reasonable expenses for keeping the livestock.

(2) The provisions of subsections (2), (3) and (4) of Section 9 having been complied with, the committee, by order under the hand of two or more of its members, shall direct a sale or other disposition of the stray livestock at the time and place stated under the provisions of subsection (4) of Section 9.

(3) If no offers are made at the sale, or if the amount offered is not reasonable in the view of the committee, the committee shall dispose of the stray livestock in such manner as it deems fit.

(4) The proceeds of the sale or disposal of the stray livestock shall be distributed by the committee having regard to the reasonable expenses incurred by the person detaining the livestock and the cost of advertising and the balance, if any, shall be retained by the municipality unless claimed by the owner of the livestock within twelve months of the date of sale or other disposition, in which case it shall be paid to the owner.

(5) If any question arises between the owner of the livestock, the person detaining it or the municipality respecting ownership or expenses of keeping the livestock, any of the parties may apply to the committee who shall determine the matter.

(6) Every person, who has detained stray livestock and who does not, within a reasonable time, transmit the information required under subsection (2) of Section 9 to the clerk of the municipality, is guilty of an offence and is liable on summary conviction to a penalty of not more than one hundred dollars for the stray livestock. R.S., c. 166, s. 10; 2002, c. 1, s. 15.

DAMAGES

Compensation for damage

11 If any damage is done by livestock breaking into and destroying the product of any enclosure the same being enclosed at the time by a sufficient fence in the judgement of the committee, the owner of the livestock trespassing shall pay to the person injured compensation for such damage. R.S., c. 166, s. 11.

Payment by owner

12 In any municipality or portion of any municipality in which, by any by-law, order or regulation of such municipality, livestock are not allowed to run at large on any public street, square or common, or other public ground in such municipality or portion thereof compensation for any damage caused or done by any livestock straying from any such public street, square, common or other public ground, while running at large, into any field or on any other improved land, being private property, whether the same is enclosed by a fence or not, shall be paid by the owner of such livestock so trespassing to the person injured. R.S., c. 166, s. 12.

Appraisal of damage

13 The amount of the damage to be paid under Sections 11 and 12 shall be appraised by the committee. R.S., c. 166, s. 13.

Action for damage

14 If the owner refuses to pay the amount appraised upon notice thereof, the person injured may maintain an action therefor as for a private debt. R.S., c. 166, s. 14.

Common law preserved

15 Nothing in this Act shall be construed to impair the right of action under the common law for damages occasioned by livestock breaking into lands. R.S., c. 166, s. 15.

16 to 18 repealed 2002, c. 1, s. 16.

GOVERNOR IN COUNCIL

Designation of municipality

19 The Governor in Council may designate a municipality as a municipality for the purposes of this Act upon being so requested, in writing, by that municipality addressed to the Minister. R.S., c. 166, s. 19; 2002, c. 1, s. 17.

Other statutes

20 The *Fences and Impounding of Animals Act* does not apply to any municipality that is designated by the Governor in Council pursuant to Section 19 to be a municipality for the purposes of this Act. R.S., c. 166, s. 20; 2002, c. 1, s. 18.

