

6 Legal Aspects of Rural Living Resource Kit for Nova Scotia Farmers

Laws are constantly changing and vary by municipality. The following are some general guidelines to know when living in the country.

Boundary Fences and Trees: In Nova Scotia, both adjoining landowners need to maintain a fence line and one party may not remove a fence without the permission of the other. The same applies to trees. However, a property owner may trim the branches of a tree hanging on his side of the property as long as the trimming does not result in damage to the tree.

Fencing for Livestock: The Nova Scotia Fences and Detention of Stray Livestock Act requires the owner of a livestock farm to build and maintain fences to prevent livestock from escaping his/her farm. Under this Act, if any person believes that a livestock fence is not adequate, he/she may notify the clerk of the municipality in which the land is located and the clerk will refer the matter to the chair of the Fences Arbitration Committee for that municipality. For municipalities that do not have a Fences Arbitration Committee, another procedure may be followed.

Riparian Rights: The Nova Scotia Environment Act designates NS Environment as the lead agency responsible for watercourses and water resources within the province. In the Environment Act, "watercourse" is defined as "the bed and shore of every river, stream, lake, creek, pond, spring, lagoon or other natural body of water, and the water therein, within the jurisdiction of the Province whether it contains water or not, and all ground water." The alteration of watercourses and wetlands requires approval from NS Environment. This may include the construction of ponds and man-made waterways. An approval is also required from NS Environment if there is a withdrawal or diversion of water in an amount greater than 23, 000L per day from a source of surface water or groundwater.

Posting and Trespass Law: Under the Protection of Property Act, it is an offence to enter on premises that is a lawn, garden, orchard, vineyard, golf course, acreage managed for agricultural crops, or that is apparently a tree plantation area or a Christmas tree management area. It is an offence to remain on property after being directed to leave by the occupier or person

authorized by the occupier. However, it is legal to enter forest land for hunting, camping, berry picking or hiking. Forest land does not include areas that are apparently tree plantation areas or Christmas tree plantation management areas; the immediate area where any activity is apparently being carried out on woodlands for the purpose of harvesting a forest product; or a commercial berry growing area. Furthermore, anglers have the right to go on foot along the banks of any river, stream or lake and upon and across any uncultivated lands and Crown lands to fish with rod and line. Anglers also have the right to use a boat or canoe on or across any river, stream or lake.

Landowner Liability: This is a very complicated issue and the best protection is risk management, insurance and posting. While trespassing is illegal, it is also illegal for the property owner to harm the trespasser. If you give permission to someone to use your land for any purpose, it is advisable to warn them of hazards on the property.

Animal Welfare: The Animal Protection Act provides for the appointment of a Provincial Inspector responsible for animal welfare. The Inspector will respond to complaints of cruelty towards farm animals, including horses. The Society for the Prevention of Cruelty to Animals responds to complaints of cruelty towards other animals.

Farm Practices Act: The Farm Practices Act was passed to protect farmers engaged in “normal farm practices” from actions by their neighbours and others. A normal farm practice is defined as a practice that is conducted as part of an agricultural operation:

- in accordance with an approved code of practice;
- in accordance with a directive, guideline or policy statement set by the Minister with respect to an agricultural operation or normal farm practice; or
- in a manner consistent with proper and accepted customs and standards as established and followed by similar agricultural operations under similar circumstances, including the use of innovative technology used with advanced management practices.

Farm Neighbor Relations: A way to avoid problems that may arise from the above situations is to let your neighbors know what you are doing on your farm and what to expect. If you have to operate for long hours during

the planting and harvest seasons or will be spreading manure, let your neighbors know. Communication goes a long way towards avoiding complaints about noise, dust, odor, livestock hazards, or farming practices. Your farming neighbors may have had no exposure to living in the country and you can help educate them about agriculture and where food comes from by letting them know what you do.

For more information, contact the Nova Scotia Federation of Agriculture (893-2293) or see the FAQ page on their website: <http://nsfafane.ca/educational-resources/environmental-law-qa/>

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