

ORDINANCE NO. 12-17-07

**ORDINANCE GOVERNING FENCING OF REAL PROPERTY AND
RESTRICTING BLOCKING AND FENCING OF CLASS B AND D ROADS**

WHEREAS there is substantial real property (private and public) located in Wayne County that is used for agriculture, grazing, recreation, commercial, residential and other uses; and

WHEREAS there are numerous Class B and Class D roads located within Wayne County that cross private and public land and provide access to private and public land for various purposes; and

WHEREAS Wayne County believes that the use of real property, both private and public, within Wayne County and access to such property is necessary and important for the agriculture, commercial, residential, recreation and other purposes deemed important for the citizens of Wayne County; and

WHEREAS the Wayne County Commission believes it is in the best interest of the citizens of Wayne County that a fence ordinance prescribing what constitutes a lawful fence and providing regulations for fencing upon a change of land use, establishing responsibility for fences between landowners, and governing liability for trespass be established; and

WHEREAS the Wayne County Commission believes it is in the best interest of the citizens of Wayne County that travel over Class B and Class D roads not be impaired or interrupted;

NOW THEREFORE, IT IS HEREBY ORDAINED AS FOLLOWS:

1. Except as hereinafter provided, no person or entity owning or occupying real property within Wayne County, State of Utah, shall be entitled to collect damages, or have a claim for damages in court, for any trespass of livestock on farms, residences, or other private property, or land belonging to the United States of America or the State of Utah, if such land at the time of such trespass shall not have been enclosed by a legal fence properly maintained. Provided however, this prohibition shall not apply to adjoining private property owners if the damaged owner has offered to equally share the cost and labor of constructing a fence with the adjoining owner of whose livestock has trespassed, and the latter has refused to participate in the cost and labor of constructing a fence.

2. A legal fence is defined for the purpose of paragraph number 1 above as a fence with not less than four (4) horizontal barriers consisting of wires, boards, poles or other fence material, in common use in the neighborhood with posts set no more than sixteen (16) feet apart. The lower barrier shall not be more than eighteen (18) inches above the ground and the space between any two barriers shall not be more than twelve (12) inches, and the height of the top barrier must be at least forty-eight (48) inches above the ground, unless otherwise approved by