

Draft Regulation

Land Surveyors Act
(R.S.Q., c. A-23)

Land surveyors — Standards of practice for staking and layout

Notice is hereby given, in accordance with the Regulations Act (R.S.Q., c. R-18.1), that the Bureau of the Ordre des arpenteurs-géomètres du Québec, at a meeting held on 12 and 13 December 2001, adopted the Regulation respecting the standards of practice for staking and layout.

The Regulation, the text of which appears below, will be examined by the Office des professions du Québec pursuant to section 95 of the Professional Code. It will then be submitted, with the Office's recommendation, to the Government which, pursuant to the same section, may approve it with or without amendment at the end of 45 days from this publication.

This Regulation, which replaces the existing Regulation, updates and sets the norms for the minimum standards of practice for land surveyors carrying out staking or layouts, by revising and clarifying them. Staking consists in indicating, by means of markers, the boundaries of existing or future immovable property; layout consists in mapping and marking the exact location of a structure relative to the boundaries of the immovable property or other reference lines. These operations greatly facilitate the exercise of an individual's ownership rights, which are confirmed by a certificate issued by the land surveyor that carried them out. The certificate is kept *en minute* by the land surveyor. In short, this new Regulation reflects the current generally accepted standards of practice in respect of this component of land surveying.

According to the Ordre des arpenteurs-géomètres du Québec:

1. The Regulation will protect the public by better protecting landownership rights with rules and currently accepted procedures for the effective marking of boundaries on lots. The Regulation allows the land surveyor to take into account any possible encroachments or disturbance of possession in the placing of markers. The Regulation also operates directly in the layout of structures by requiring that they comply, among other things, with setbacks from public roads under municipal urban planning by-laws.

2. The Regulation will affect individuals, businesses or partnerships only insofar as they own land or hold other land rights.

Further information on the proposed Regulation may be obtained by contacting Mr. Luc St-Pierre, Director General and Secretary, Ordre des arpenteurs-géomètres du Québec, 2954, boulevard Laurier, bureau 350, Sainte-Foy (Québec) G1V 4T2, telephone: (428) 656-0730; fax: (418) 656-6352.

Any person having comments to make is asked to send them, before the expiry of the 45-day time limit, to the Chair of the Office des professions du Québec, 800, place D'Youville, 10^e étage, Québec (Québec) G1R 5Z3. Comments will be forwarded by the Office to the Minister responsible for the administration of legislation respecting the professions and they may also be forwarded to the professional order that has adopted the Regulation, as well as to interested persons, departments and bodies or agencies.

JEAN-K. SAMSON,
Chair of the Office des professions du Québec

Regulation respecting standards of practice relative to staking and layout

Land Surveyors Act
(R.S.Q., c. A-23, s. 49)

DIVISION I GENERAL PROVISIONS

1. In this Regulation, unless otherwise indicated by the context:

(1) "property" means immovable such as a parcel of land with or without a building, an immovable held in divided co-ownership or a private portion of an immovable held in divided co-ownership;

(2) "layout" means all survey operations performed by a land surveyor to position and materialize by using marks the exact location of a structure or structural features to be erected or modified, in relation to the boundaries of a property, another existing structure or other reference lines;

(3) "staking" means all the survey operations performed by a land surveyor to indicate his opinion on the boundaries of existing or proposed property or of a dismembered right on such property by placing benchmarks.

2. Staking and layout are valid for the sole benefit of the client or his mandatary.

3. Bench-marks placed during staking are those defined in Division II of the Regulation respecting bench-marks and boundary markers (R.R.Q., 1981, c. A-23, r.13).

DIVISION II STAKING

4. For any staking, a land surveyor shall, in particular :

- (1) make the required searches at the registry office ;
- (2) take all measurements and make all calculations necessary for checking the marks of occupation and situate them in relation to one another ;
- (3) compare the geometry of the occupations with that of ownership titles and of the cadastre and, when required, of the original survey ;
- (4) make the analysis to determine the position of the boundaries on the land and on the plan ;
- (5) place bench-marks, except in the cases provided for in section 7 ;
- (6) record the survey operations ; and
- (7) issue the certificate of staking.

5. In order to establish the boundaries of the property, a land surveyor shall ensure that sufficient territory is covered to support his opinion.

All survey operations carried out for staking purposes shall be recorded in clearly written notes that faithfully show and locate the state of the premises, in particular any mark of occupation or encroachment sign, as well as the beginning points or lines and the course followed to place the bench-marks.

6. The result of the survey operations shall be confirmed by an additional source of information duly identified and recorded in the notes, in particular by using any of the following methods : measurement by repetition, data cross-checking, different ties to fixed positions, searches or a previous or concomitant survey plan.

7. Where a land surveyor finds a bench-mark at the place of his delimitation and concludes that its position is in keeping with his opinion, he shall adopt that bench-mark, not move it and refrain from planting another one. He shall mention that fact in the certificate of staking.

If the position of the found bench-mark departs from his opinion on the position of the limit to be marked, the land surveyor shall consult the land surveyor concerned with a view to reaching an agreement.

In the case of a bench-mark placed by a land surveyor who no longer has possession of his records, the land surveyor shall consult those records so as to check the content of the certificate of staking in question or of any relevant survey document.

On the basis of that information, the land surveyor shall resume his staking operation following his opinion and indicate the place where he found the bench-mark in the certificate of staking.

8. A land surveyor who acknowledges that placing his bench-marks at the place of his delimitation would be likely to disturb the possession of the client or his neighbour shall first make an investigation with the person whose possession is likely to be disturbed so as to validate the signs of occupation observed.

If the investigation of the land surveyor confirms his opinion that placing bench-marks is likely to trouble the possession, he shall stop his demarcation operations and prepare a plan and a written report and give them to his client or his mandator. The plan and report shall contain all explanations necessary for the good understanding of the situation, as well as the land surveyor's recommendations. The land surveyor is then deemed to have completed staking and the report stands in lieu of a certificate.

If the investigation of the land surveyor invalidates his opinion that placing bench-marks is likely to trouble the possession, he shall complete the staking by placing bench-marks and by preparing the certificate of staking, which must include all significant elements and the conclusions of his investigation.

9. The certificate of staking is written confirmation that staking has been performed, in the form of a plan that may be accompanied by a report, issued by the land surveyor to the client or his mandator. The certificate shall indicate, in particular :

- (1) the name of the client or mandator ;
- (2) the date of the operations ;
- (3) the purpose for which staking has been performed ; and
- (4) the number of bench-marks placed.

10. The certificate of staking is a document en minute which is dated, signed and kept in the records of the land surveyor; it shall be made on legal-size paper or larger.

DIVISION III LAYOUT

11. For any layout, a land surveyor shall, in particular:

(1) make the required searches at the registry office to make sure that there is no active or passive servitude entered in the index of immovables or in the land register, or other restrictions likely to constraint the erection or modification of the structure;

(2) make the required searches to make sure that the position of the structure complies with municipal by-laws respecting subdivision and zoning;

(3) take all measurements and make all calculations necessary for checking the marks of occupation and situate them in relation to one another;

(4) compare the geometry of the occupations with that of ownership titles and of the cadastre and, when required, of the original survey;

(5) make the analysis to determine the position of the boundaries on the land and on the plan;

(6) materialize the layout, except in the cases provided for in section 14;

(7) record the survey operations; and

(8) issue the certificate of layout.

12. A land surveyor shall ensure that sufficient territory is covered to support his opinion in order to establish the location of the structure or structural features to be erected or modified, in relation to the boundaries of a property, another existing structure or other reference lines.

All survey operations carried out for layout purposes shall be recorded in clearly written notes that faithfully show and locate the state of the premises, in particular any mark of occupation or encroachment sign, as well as the points or lines of departure and the course followed to carry out the layout.

13. The result of the survey operations shall be confirmed by an additional source of information duly identified and recorded in the notes, in particular by using any of the following methods: measurement by repetition, data cross-checking or different ties to fixed positions.

14. If the land surveyor finds that it is impossible to carry out the layout by reason of, in particular, the physical state of the premises, the existence of a servitude or data provided by the client or his mandator that are incompatible with one another or with the state of the premises, he shall stop his layout operations and immediately inform the client or his mandator that his mandate must be redefined, or terminate it by preparing and giving him a plan of the situation, together with a written report. The plan and the report shall contain all explanations necessary for the good understanding of the situation, as well as the land surveyor's recommendations.

15. The certificate of layout is written confirmation that layout has been carried out, in the form of a plan that may be accompanied by a report, issued by the land surveyor to the client or his mandator. The certificate shall indicate, in particular:

(1) the name of the client or mandator;

(2) the date of the operations;

(3) the purpose for which layout has been carried out;

(4) where applicable, the certificate of staking or the minutes of boundary determination on which the layout is based;

(5) the clearance between the structure to be erected or modified and, as the case may be, the boundaries of the property, the existing structure or the reference lines;

(6) the type of marks placed;

(7) the relative position between the markers placed and the boundaries of the property and the structure or structural features to be erected or modified; and

(8) where applicable, any active or passive servitude entered as such in the index of immovables or in the land register.

16. The certificate of layout is a document en minute which is dated, signed and kept in the records of the land surveyor; it shall be made on legal-size paper or larger.

DIVISION IV TRANSITIONAL

17. This Regulation replaces the Regulation respecting standards of practice relative to staking and layout, approved by Order in Council 1233-83 dated 15 June 1983.

18. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

4869

Draft Regulation

Parks Act
(R.S.Q., c. P-9)

Parks

— Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation to amend the Parks Regulation, the text of which appears below, may be made by the Government upon the expiry of 45 days following this publication.

The draft Regulation introduces authorizations to enter Parc national d'Anticosti to fish anadromous Atlantic salmon or any other species of fish during the anadromous Atlantic salmon fishing season.

The Regulation sets the fee for an authorization to enter, for residents and non residents, at \$30.43 per day per person for the 2002-2003 fiscal year and \$31.30 per day per person for the 2003-2004 fiscal year.

Any interested person having comments to make on the matter is asked to send them in writing, before the expiry of the 45-day period, to the Minister responsible for Wildlife and Parks, 700, boulevard René-Lévesque Est, 29^e étage, Québec (Québec) G1R 5H1.

RICHARD LEGENDRE,
*Minister responsible for
Wildlife and Parks*

Regulation to amend the Parks Regulation *

Parks Act
(R.S.Q., c. P-9, s. 9.1; 2001, c. 63, s. 11)

1. The Parks Regulation is amended by adding the following after paragraph 2.2 of section 2 of Schedule I:

“2.3. For anadromous Atlantic salmon or any other species of fish during the anadromous Atlantic salmon fishing season in Parc national d'Anticosti :

(a) the holder of a sport fishing licence for anadromous Atlantic salmon :

for Québec residents :

2002-2003	2003-2004	
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\$30.43	\$31.30	per day per person ;
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(b) the holder of a sport fishing licence for anadromous Atlantic salmon :

for non-residents of Québec :

2002-2003	2003-2004	
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\$30.43	\$31.30	per day per person.”.
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2. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

4877

Draft Regulation

Professional Code
(R.S.Q., c. C-26)

Acupuncturists

— Diplomas giving access to the permit — Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation to amend the Regulation respecting the diplomas issued by designated teaching establishments which give access to permits or specialist's certificates of professional orders, the text of which appears below, may be made by the Government upon the expiry of 45 days following this publication.

The amendments proposed by the Regulation concern the diplomas issued by teaching establishments which give access to the permit of the Ordre professionnel des acupuncteurs du Québec. It is thus proposed to add a section to the Regulation in order to determine that the diploma of college studies awarded by the Minister of Education following the completion of studies in traditional acupuncture at Collège de Rosemont gives access to the permit issued by the Ordre des acupuncteurs du Québec.

* The Parks Regulation, made by Order in Council 838-2000 dated 28 June 2000 (2000, *G.O.* 2, 3556), was last amended by the Regulation made by Order in Council 318-2001 dated 28 March 2001 (2001, *G.O.* 2, 1894).