Ohio law outlines rules for mending fences with neighbors

Many fences have been removed in the rural area as farmers have shifted from livestock to grain production. However, grazing animals, such as cattle, goats, horses and sheep are still abundant in the county and require some type of fencing around forage fields.

New property owners or individuals purchasing small acreages may not realize that Ohio has fence laws on agriculture land between property owners. Even long-time farmers may have realized that Ohio fence laws have changed dramatically in the past ten years.

One may also believe the proverbial statement that fences make good neighbors. When neighbors have similar goals, an agreeable strategy for fence maintenance is often easily worked out. Unfortunately, some opinions differ, leading to conflict, which led to Ohio’s fencing laws.

One of Ohio’s oldest rural laws is built around the care of partition fence. Ohio Revised Code, chapter 971 defines a partition fence or “line fence” as a fence placed on the division line between two adjacent properties.

In 2008, the law was updated to state that partition fence includes “A fence that has been considered a division line between two such properties even though a subsequent land survey indicates that the fence is not located directly on the division line.”

If both neighbors utilize the fence for similar purposes, the responsibilities are typically split evenly, which includes keeping the fence line clear of brush and weeds within four feet of the fence.

EDWIN LENTZ
COUNTY AGENT

Historically, in all cases, the responsibility of maintaining the fence fell on each landowner equally, but revisions made in 2008 determined that the responsibility of existing (prior to 2008) fence can be divided more fairly by considering six factors:

- The topography of the property where the fence is or will be located.
- The presence of streams, creeks, rivers or other bodies of water on the property.
- The presence of trees, vines or other vegetation on the property.
- The level of risk of trespassers on either property due to the population density surrounding the property or the recreational use of adjoining properties.
- The importance of marking division lines between the properties.
- The number and type of livestock that each landowner may contain with the fence.

If a new fence is constructed, the responsibilities are different than in decades past. By definition, a “new” line fence is one constructed where a partition fence has never existed. In this case, the construction and maintenance responsibility are wholly the initiating landowner’s responsibility, unless the neighbor uses the fence for livestock within 30 years of construction. In that case, the landowner who built the fence could seek reimbursement from their neighbor by filing an affidavit with the county recorder.

To be compliant with state law, a new partition fence containing livestock must meet the standards of “preferred partition fence.” The following are considered preferred:

- A woven wire fence of either standard or high tensile wire and topped with one or two strands of barbed wire that is at least 48 inches from the ground.
- A non-electric high tensile fence with at least seven strands of wire constructed in accordance with the U.S. Department of Agriculture’s Natural Resources and Conservation Services Division standards.
- A barbed wire, electric or live fence to which the adjoining landowners agree, in writing.

Neighbors who wish to construct new fence must be granted 10 feet on the adjoining property to perform construction and maintenance. However, the fence builder is liable for damages caused by the entry onto the adjoining property, including damages to crops.

Alternative landowner agreements are tools that can allow neighbors to create their own fence line agreements that alter how state law applies in their situation. For this option to be considered valid and binding, the agreement must:

- Be in writing.
- Include a description of the land where the fence is located.
- Include a description of the purpose and use of the fence.
- Be filed with the county recorder in the county where the land is located.

If a dispute regarding partition fence cannot be resolved between neighbors, there are two ways to proceed through resolution. A complaint may be filed with the board of township trustees or directly in the court of common pleas.

Working through a resolution in these manners can be lengthy and complicated. Details on appropriate procedures for filing a complaint can be found in Ohio Revised Code 971.09.

The Ohio code only addresses fence issues for land designated as agriculture. Municipalities and other communities may have additional and more restricted fence regulations.

Good communications among neighbors is the easiest way to decide on a plan for fence care. Openly stating your intentions and wishes in a courteous and polite manner often gets cooperative results. Once you have reached an agreement, seal it with a handshake, but also, put it in writing and file it appropriately.

The above information was adapted from an Ohio State University Extension article written by Christine Gelley. Additional fence law information may be found at: http://go.osu.edu/aglawlinefence.

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