

# IOWA STATE UNIVERSITY

## Extension and Outreach

### Small Farm Sustainability

Under Iowa Law, Good Neighbors  
Must Sometimes Build Good Fences



***Kristine Tidgren***  
***Staff Attorney, Center for Agriculture Law and Taxation***  
***Iowa State University***

We often receive questions at CALT about Iowa fence law and the obligations it imposes on landowners. The Iowa Supreme Court has noted that “Iowa fencing statutes date from our earliest times, even predating the Iowa Code of 1851.” Although the law is long-standing, property owners are sometimes surprised by the obligations imposed. This



article provides a brief overview of Iowa Code § 359A. Although fences located fully within the boundaries of a city are subject to municipal law, it is important to note that Iowa fence law applies whether or not farming is conducted on the land.

### Partition Fences

In general, Iowa landowners are not required to maintain a partition fence to separate their parcels from other owners. If one adjoining landowner, however, chooses to erect a partition fence, he or she may compel the neighbor to contribute to one-half of the cost of the construction and maintenance of that fence. This is true even if the person requesting the fence is the only party with livestock.

Non-livestock owners have challenged the constitutionality of this rule, arguing that they should not have to contribute to the cost of a fence designed only to keep their neighbor's livestock in. The Iowa Supreme Court, however, has found the law constitutional. The Court reasoned that a law may serve the public purpose even if it benefits certain individuals more than others. The Court also found that landowners who do not own livestock do derive some benefits from a fence, including increased privacy and freedom from unwanted intrusion by the neighbor's livestock.

## Requesting a Fence

To compel a neighbor to contribute to the cost of a fence, a landowner must send the neighbor a written request. The partition fence is to be built on the property line, "partly on one side" of the property line and "partly on the other." Both parties have the right to maintain the fence as if it were wholly on his or her property.

When one party initiates a request for a partition fence, the parties generally agree upon the best way to erect it. Some choose to follow the right-hand rule, meaning that each party is responsible to build and maintain that portion of the fence to their right of the midpoint. Landowners, however, can agree to any arrangement they choose for erection and maintenance of the partition fence. A fence agreement is enforceable in court if the parties file with the county recorder a written agreement, signed and acknowledged by all owners.

## Resolving a Dispute

If the parties cannot agree as to their obligations under the Iowa fence law, they may contact "fence viewers" to settle the dispute. The fence viewers are typically the trustees of the township in which the property is located. Either landowner may initiate a decision from the fence viewers by sending them a written request. The trustees then provide the opposite party or parties five days' written notice, setting a time and a place to meet and "hear" the controversy. After the meeting, the fence viewers issue a written order allocating responsibility for the fence equally between the neighboring landowners. This order is binding, but either party may appeal the decision to the district court.

If the fence is not erected or repaired within 30 days of the date required by the fence viewers, a landowner may ask the fence viewers to erect or repair the fence. To initiate such action, the complaining landowner deposits with the fence viewers the full amount of money required to build or repair the fence (along with the fence

viewer fees and costs). The fence viewers will then build or repair the fence and bill the opposing landowner for his or her share. If the landowner does not pay the billed amount within 10 days, the fence viewers will ask the county auditor to collect the sum as a property tax. After the fence viewers collect the money from the opposing landowner, that amount is refunded to the complaining landowner.

It is important to note that fence viewers only have the power to decide disputes regarding a landowner's obligations to construct or maintain a fence under Iowa law. They cannot settle boundary disputes. A party wishing to settle a boundary dispute typically files an action to quiet title in the district court of the county where the land is located.

## What is a Lawful Fence?

The statute details six categories of fences that qualify as a "lawful fence" in Iowa. These include:

1. Three rails of "good substantial material" fastened to "good substantial posts" not more than ten feet apart.
2. Three boards not less than six inches wide and three-quarters of an inch thick, fastened to "good substantial posts" not more than eight feet apart.
3. Three wires, barbed with not less than thirty-six iron barbs of two points each, or twenty-six iron barbs of four points each, on each rod of wire, or of four wires, two thus barbed and two smooth, the wires to be firmly fastened to posts not more than two rods apart, with not less than two stays between posts, or with posts not more than one rod apart without such stays, the top wire to be not more than fifty-four nor less than forty-eight inches in height.
4. Wire either wholly or in part, substantially built and kept in good repair, the lowest or bottom rail, wire, or board not more than twenty nor less than sixteen inches from the ground, the top rail, wire, or board to be between forty-eight and fifty-four inches in height and the middle rail, wire, or board not less than twelve nor more than eighteen inches above the bottom rail, wire, or board.
5. A fence consisting of four parallel, coated steel, smooth high-tensile wire which meets requirements adopted by ASTM (American Society for Testing and Materials) international, including but not limited to requirements relating to the grade, tensile strength, elongation, dimensions, and tolerances of the wire. The wire must be firmly fastened to plastic, metal, or wooden posts securely planted in the earth. The posts shall not be more than two rods apart. The top wire shall be at least forty inches in height.

6. Any other kind of fence which the fence viewers consider to be equivalent to a lawful fence or which meets standards established by the department of agriculture and land stewardship by rule as equivalent to a lawful fence.

If landowners desires a “tight” fence, which is better suited to keep in sheep or hogs, they must make their portion of the fence tight. The adjoining landowners must then do the same. A “tight” fence is defined as follows:

1. Not less than twenty-six inches of substantial woven wire on the bottom, with three strands of barbed wire with not less than thirty-six barbs of at least two points to the rod, on top, the top wire to be not less than forty-eight inches, nor more than fifty-four inches high.
2. Good substantial woven wire not less than forty-eight inches nor more than fifty-four inches high with one barbed wire of not less than thirty-six barbs of two points to the rod, not more than four inches above said woven wire.
3. Any other kind of fence which the fence viewers consider to be equivalent to a tight partition fence or which meets standards established by the department of agriculture and land stewardship by rule as equivalent to a tight partition fence.

## Conclusion

Carl Sandburg once wrote, “Love your neighbor as yourself, but don’t take down the fence.” Iowa law supports that sentiment. The Iowa Supreme Court has stated, “Shared responsibility for partition fences minimizes conflict among neighbors. The fencing statute does not merely benefit livestock owners. It serves the broader public good by mediating boundary, fence and trespass disputes.” For a more detailed review of Iowa fence law, please see the article, [Iowa Fence Law](#) ↗, on the CALT website.

**Date of Publication:** November, 2015

**Category:** [Acreage Living Newsletter](#), [Livestock](#), [Rural Lifestyle](#)

**Tags:** [livestock](#), [property](#), [barbed wire](#), [board fence](#)