

Farm Management

Know basics of Ohio fence line law

THE laws related to fences in Ohio have seen significant changes over the years. Originally, when Ohio was a mostly agrarian society, the fence law required landowners to fence out livestock from their property. Later, as Ohio became more urban, the law changed to require livestock owners to fence in their livestock.

In 2008, the fence law changed again by



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the Ohio Legislature to address, among other things, the issue of who is respon-

sible for the costs of building and maintaining fences.

Ohio fence line law only applies to fences placed on the division line between properties in unincorporated areas. The custom in Ohio had been that each landowner was responsible for building and maintaining the right-hand half of the fence. This custom worked well when

many landowners also owned livestock. As fewer landowners owned livestock and more nonfarmers owned farmland, this custom started to become antiquated. In the 1970s, Ohio courts began to move away from enforcing this custom and started to make decisions on fairness. The 2008 update to the fence law was, in part, meant to address this diversion from custom by Ohio courts.

Different fence, different law

The new Ohio fence line law has different rules for different fences. Old fences are those built prior to Sept. 30, 2008, and new fences are those built after Sept. 30, 2008. It is important to note that a new fence applies to a boundary on which there has never been a fence. If there was a fence on the boundary line previously, even if it has since been taken down, it is still considered an old fence.

For old fences, an "equitable shares" rule applies. Each landowner is responsible for the costs of building and maintaining the fence based on what is fair or equitable. The more a landowner uses or benefits from the fence, the more he or she must pay.

The new law provides six factors to determine each owner's share of responsibility: topography of the properties, presence of waterways and trees, risk of trespassers, importance of marking the division line, and presence of livestock.

The share of responsibility can range from 50-50 to 100-0.

If landowners can agree on their respective share of responsibility for a line fence, this agreement should be recorded with the county recorder. However, landowners often disagree as to their share of responsibility. In such situations, the law provides that they may file a complaint with the township trustees or the county common pleas court. The trustee or court will view the fence line, hear arguments from both owners, and determine the equitable share for each landowner.

Who pays now?

For new fences, the law is much different. The landowner who builds the fence is required to pay all costs of construction and maintenance. However, if the neighboring landowner uses the fence within 30 days of construction, the landowner who paid for the fence may seek reimbursement. The landowner who builds the new fence should file an affidavit with the county recorder establishing when the fence was built and the cost of the fence.

For example, a landowner builds a new fence in 2014 and pays for all the costs. In 2024, a neighbor starts pasturing cattle on his side of the fence. The neighbor is now using the fence for his benefit, and the landowner can seek reimbursement for a portion of the original fence costs.

The Ohio fence law can be read in its entirety in Section 971 of the Ohio Revised Code.



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