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States' Fence Statutes:

Iowa



This material is based upon work supported by the National Agricultural Library, Agricultural Research Service, U.S. Department of Agriculture

A National Agricultural Law Center Research Publication

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Iowa Code §§ 169C.1 to 169C.6, § 314.30, §§ 327G.3 to 327G.12, §§ 359A.1 to 359A.25

Current with legislation effective 4/12/2021 from the 2021 Regular Session, subject to changes made by Iowa Code Editor for Code 2022.

169C.1. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Aggrieved party" means a landowner or a local authority.
2. "County system" means the same as defined in section 445.1.
3. "Fence" means a fence as described in chapter 359A which is lawful and tight as provided in that chapter, including but not limited to a partition fence. For purposes of this chapter, "fence" includes a fence bordering a public road.
4. "Landowner" means a person who holds an interest in land, including a titleholder or tenant.
5. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine, or porcine species; ostriches, rheas, or emus; farm deer as defined in section 170.1; or poultry.
6. "Livestock care provider" means a person designated by a local authority to provide care to livestock which is distrained by a local authority.
7. "Livestock owner" means the person who holds title to livestock or who is primarily responsible for the care and feeding of the livestock as provided by the titleholder.
8. "Local authority" means a city as defined in section 362.2 or a county as provided in chapter 331.
9. "Maintenance" means the provision of shelter, food, water, or a nutritional formulation as required pursuant to chapter 717.
10. "Public road" means a thoroughfare and its right-of-way, whether reserved by public ownership or easement, for use by the traveling public.

169C.2. Custody.

A landowner may take custody of livestock if the livestock trespasses upon the landowner's land or strays from the livestock owner's control on a public road which adjoins the landowner's land. A local authority may take custody of the livestock as provided by the local authority. The landowner shall not transfer custody of the livestock to a person other than the livestock owner or a local authority, unless the livestock owner approves of the transfer. A local



authority shall not transfer custody of the livestock to a person other than the livestock owner or a livestock care provider.

169C.3. Notice to livestock owner.

1.
 - a. If livestock trespasses upon a landowner's land or the landowner takes custody of the livestock, the landowner shall deliver notice of the trespass or custody to the livestock owner within forty-eight hours following discovery of the trespass or taking custody of livestock which has not trespassed. If a local authority takes custody of the livestock, the local authority shall deliver notice of the custody to the livestock owner within forty-eight hours after taking custody of the livestock. The forty-eight-hour period shall exclude any time that falls on a Sunday or a holiday recognized by the state or the United States. The notice shall be made in writing and delivered by certified mail or personal service to the last known mailing address of the livestock owner.
 - b. If the aggrieved party does not know the name and address of the livestock owner, the aggrieved party shall make reasonable efforts to determine the identity of the livestock owner. The reasonable efforts shall include obtaining the name and address of the owner of the brand appearing on the livestock from the department of agriculture and land stewardship under chapter 169A. If the name and address of the livestock owner cannot be determined, the aggrieved party shall publish the notice as soon as possible at least once each week for two consecutive weeks in a newspaper having general circulation in the county where the livestock is located.
2. A notice required under this section shall at least provide all of the following:
 - a. The name and address of the landowner or local authority.
 - b. A description of the livestock and where it trespassed or strayed.
 - c. An estimate of the amount of the livestock owner's liability.

169C.4. Liability.

1. A livestock owner shall be liable to the following persons:
 - a. To a landowner for damages caused by the livestock owner's livestock which have trespassed on the landowner's land, including but not limited to property damage and costs incurred by the landowner's custody of the livestock including maintenance costs. A livestock owner's liability is not affected by the failure of a landowner to take custody of the livestock. A livestock owner shall not be liable for damages incurred by a landowner if the livestock trespassed through a fence that was not maintained by the landowner as required pursuant to chapter 359A.
 - b. To a landowner who takes custody of livestock on a public road as provided in section 169C.2 for costs incurred by the landowner in taking custody of the livestock, including maintenance costs.
 - c. To a local authority which takes custody of livestock for costs incurred by the local authority in taking custody of the livestock, including maintenance costs.



2. An aggrieved party who fails to provide timely notice of a livestock's trespass or custody as required by section 169C.3 shall not be entitled to compensation for damages for the period of time during which the aggrieved party fails to provide timely notice.

3. A landowner is not liable for an injury or death suffered by the livestock in the landowner's custody unless the landowner caused the injury or death. The landowner is not liable for livestock that strays from the landowner's land. An aggrieved party is not liable for livestock that strays from the control of the aggrieved party.

169C.5. Satisfaction for damages.

1.

a. After receiving notice by an aggrieved party as required by section 169C.3, the livestock owner shall pay all damages to the aggrieved party for which the livestock owner is liable.

b. The aggrieved party or the livestock owner may bring a civil action in order to determine the livestock owner's liability and the amount of any claim for damages. The aggrieved party or livestock owner must bring the action within thirty days following receipt or publication of the notice as required by section 169C.3. The court may join all other claims arising out of the same facts that are alleged in the claim for damages. The civil action may be heard by a district judge or a district associate judge. The civil action may be heard by the district court sitting in small claims as provided in chapter 631.

c. If the livestock is in the custody of an aggrieved party or livestock care provider, a rebuttable presumption arises that the livestock has trespassed or strayed from the control of the livestock owner. The rebuttable presumption shall not apply if a criminal charge has been filed involving the removal or transfer of the livestock. The burden of proof regarding all other matters of dispute shall be on the aggrieved party.

d. The failure of an aggrieved party to provide notice as required by section 169C.3 shall not bar the aggrieved party from being awarded a judgment, if the court determines that the livestock owner had actual knowledge that the livestock had trespassed or strayed and the name and address of the aggrieved party.

2. If a civil action is brought by the livestock owner or aggrieved party, the matter shall be heard by a court on an expedited basis. The aggrieved party shall provide for the transfer of the livestock to the livestock owner, if the livestock owner posts a bond or other security with the court in the amount of the aggrieved party's claim. If a bond or security is not posted, the aggrieved party or livestock care provider shall keep custody of and provide maintenance to the livestock. However, the livestock owner shall post the bond or other security if the matter is set for hearing more than thirty days from the date that the petition bringing the civil action is filed. The court shall order the immediate disposition of the livestock as provided in chapter 717, if the livestock is permanently distressed by disease or injury to a degree that would result in severe or prolonged suffering.

3. If a civil action is not timely brought as provided in this section, title to the livestock shall transfer to the aggrieved party thirty days following receipt of the notice by the livestock owner or the first date of the notice's publication as



required pursuant to section 169C.3, if the parties fail to agree to the amount, terms, or conditions of payment or if the identity of the livestock owner cannot be determined. Title to the livestock shall transfer subject to any applicable security interests or liens.

4. A landowner is liable to the livestock owner for twice the fair market value of livestock that the landowner transfers to a person other than a local authority in violation of section 169C.2.

5. If the aggrieved party is a local authority, the local authority shall reimburse the landowner for the landowner's damages from proceeds received from the sale of the livestock, after satisfying any superior security interests or liens.

169C.6. Habitual trespass.

A habitual trespass occurs when livestock trespasses from the land where the livestock are kept onto the land of a neighboring landowner or strays from the land where the livestock are kept onto a public road, and on three or more separate occasions within the prior twelve-month period the same or different livestock kept on that land have trespassed onto the land of the same neighboring landowner or strayed from the land where the livestock are kept onto the same public road.

1. The local authority upon its own initiative or upon receipt of a complaint shall determine whether livestock are trespassing or straying from the land where the livestock are kept onto a public road, and make a record of its findings.

2.

a. Once a habitual trespass occurs, a neighboring landowner may request that the responsible landowner of the land where the trespassing or stray livestock are kept erect or maintain a fence on the land. The neighboring landowner shall make the request to the responsible landowner in writing. The responsible landowner may compel an adjacent landowner to contribute to the erection or maintenance of the fence as provided in chapter 359A.

b. If the responsible landowner does not erect or maintain a fence within thirty days after receiving the request, the neighboring landowner may apply to the fence viewers as provided in chapter 359A as if the matter were a controversy between the responsible landowner and an adjacent landowner, and the matter shall be resolved by an order issued by the fence viewers, subject to appeal, as provided in chapter 359A. The neighboring landowner shall be a party to the controversy as if the neighboring party were an adjacent landowner. The neighboring landowner is not liable for erecting or maintaining the fence, unless the neighboring landowner is an adjacent landowner who is otherwise required to make a contribution under chapter 359A.

3. If the fence is not erected or maintained as required in section 359A.6, and upon the written request of the board of township trustees, the board of supervisors of the county where the fence is to be erected or maintained shall act in the same manner as the board of township trustees under that section, including by erecting or maintaining the fence, ordering payment from a defaulted party, and certifying an amount due to the county treasurer in the same manner as in section 359A.6. The amount due shall include the total costs required to erect or maintain the fence and a penalty equal to five percent of the total costs. The amount shall be placed upon the county



system and collected in the same manner as ordinary taxes. Upon certification to the county treasurer, the amount assessed shall be a lien on the parcel until paid.

314.30. Cattle guards.

Notwithstanding chapter 169C or 318, or any other provision of law to the contrary:

1. A landowner may install a cattle guard on a street or highway if all of the following apply:

- a. The street or highway is classified as area service “B” or area service “C” as described in section 309.57.
- b. The street or highway terminates in a dead end, is completely or partially located in a flood plain, serves no residence, and exits to a secondary road.
- c. The landowner owns property on both sides of the street or highway and owns property on both sides of any access to the street or highway.
- d. The effective purpose of restraining livestock using a fence along the street or highway is continually impaired by flooding or other natural forces.
- e. Flooding or other natural forces have and will, with a reasonable probability, continue to create liability for the landowner and risk of injury to the public from livestock straying on to the secondary road to which the street or highway exits.

2. A cattle guard installed pursuant to this section shall be installed on the street or highway at the landowner's expense at a distance of not less than sixty-six feet from the secondary road to which the street or highway exits.

3. After a landowner installs a cattle guard pursuant to this section, the landowner and each successive landowner shall not be required to install or maintain a fence along the street or highway between the point at which the cattle guard is installed and the point at which the street or highway terminates in a dead end. All of the following shall apply to a landowner who is not required to install or maintain a fence along the street or highway pursuant to this subsection:

- a. The landowner shall not be liable to a local authority as provided in section 169C.4, subsection 1, paragraph “c”, for livestock straying on to the street or highway.
- b. A local authority shall not take custody of the landowner's livestock on the street or highway as provided in section 169C.2.
- c. The landowner shall not be subject to section 169C.6 for livestock straying on to the street or highway.

4.

- a. A landowner who installs a cattle guard pursuant to this section and each successive landowner shall be liable for injury to any person, for damage to any vehicle or equipment, and for damage to the contents of any vehicle or equipment, which occurs proximately as a result of the construction, installation, or maintenance of the cattle guard or as a result



of livestock straying on to the street or highway between the point at which the cattle guard is installed and the point at which the street or highway terminates in a dead end.

b. Upon the installation of a cattle guard pursuant to this section, and before July 1 of each year thereafter, the landowner who installed the cattle guard or a successive landowner shall submit to the appropriate county office of the county having jurisdiction over the street or highway on which the cattle guard is installed, as designated by the county, proof of liability coverage in effect for the following one-year period which covers any injury or loss arising from the landowner's liability as set forth in paragraph "a".

c. This section shall not be construed to alter, limit, or nullify the maintenance requirements assigned to a county, and a county's liability relating to such maintenance requirements, pursuant to section 309.57 for the street or highway on which the cattle guard is installed.

5. As used in this section:

a. "Cattle guard" means a structure consisting of parallel bars placed over a shallow ditch that allows motor vehicles to pass over the ditch, but prevents cattle and other livestock from passing over the ditch.

b. "Fence" means as defined in section 169C.1.

c. "Landowner" means as defined in section 169C.1.

d. "Local authority" means as defined in section 169C.1.

e. "Secondary road" means as defined in section 306.3.

327G.3. Railway fences required.

All railway corporations owning or operating a line of railway within the state, shall construct, maintain, and keep in repair a fence on each side of the right of way, to prevent livestock getting upon the tracks.

327G.4. Specifications.

All fences shall be not less than fifty-four inches high and may be of any of the following types:

1. Not less than five barbed wires, properly spaced.
2. Not less than three barbed wires above and not less than twenty-four inches of woven wire below.
3. Entirely of woven wire.
4. Five boards properly spaced.
5. Any other type which the fence viewers of any township through which it passes may determine as efficient as any of the above types.

Each of the above types shall be securely nailed to posts firmly set, not more than twenty feet apart for the first three types, nor more than eight feet apart for the fourth.



327G.5. Hog-tight fences.

When any person owning land abutting on the right of way is maintaining a hog-tight fence on all sides thereof or any division of such land except along such right of way, the railway company owning such right of way shall, on written request of the landowner, make such right of way fence along such enclosed land hog-tight by the addition of barbed or woven wire or other equally efficient means.

327G.6. Failure to fence.

Any corporation operating a railway and failing to fence its right of way shall be liable to the owner of any stock killed or injured by reason of the want of such fence for the full amount of the damages sustained by the owner, unless it was occasioned by the willful act of such owner or the owner's agent; and to recover the same it shall only be necessary for the owner to prove the loss of or injury to the owner's property.

327G.7. Double damages.

If such corporation fails or neglects to pay such damages within ninety days after notice in writing that a loss or injury has occurred, accompanied by an affidavit thereof, served upon any officer or station or ticket agent employed by said corporation in the county where such loss or injury occurred, such owner shall be entitled to recover from the corporation double the amount of damages actually sustained by the owner.

327G.8. Laws and local regulations not applicable.

No law of the state or any local or police regulations of any county, township or city, relating to the restraint of domestic animals, or in relation to the fences of farmers or landowners, shall be applicable to railway rights of way, unless specifically so stated in such law and regulation.

327G.9. Failure to fence--general penalty.

If the railroad corporation refuses or neglects to comply with any provision of this chapter relating to the fencing of the tracks, such railroad corporation shall, upon conviction, be subject to a schedule "two" penalty and every thirty days' continuance of such refusal or neglect shall constitute a separate and distinct offense.

327G.10. Killing of stock--interpretative clause.

Nothing herein contained shall be construed to relieve the corporation from liability arising from the killing or maiming of livestock on said track or right of way by its negligence or that of its employees, nor shall anything in this chapter interfere with the right of open or private crossings, or with the right of persons to such crossings, nor in any way limit or qualify the liability of any corporation or person owning or operating a railway that fails to fence the same against livestock running at large for any stock injured or killed by reason of the want of such fence.

327G.11. Private farm crossings.

When a person owns farmland on both sides of a railway, or when a railway runs parallel with a public highway thereby separating a farm from such highway, the corporation owning or operating the railway, on request of the owner of the farmland, shall construct and maintain a safe and adequate farm crossing or roadway across the railway and right-of-way at such reasonable place as the owner of the farmland may designate. A private farm crossing



established or installed pursuant to this section shall be used solely for farming or agricultural purposes.

327G.12. Overhead, underground, or more than one crossing.

The owner of land may serve upon the railroad corporation a request in writing for more than one private crossing, or for an overhead or underground crossing, accompanied by a plat of the owner's land designating the location and character of crossing desired. If the railroad corporation refuses or neglects to comply within thirty days of a written request, the owner of the land may make written application to the department to determine the owner's rights. The department of inspections and appeals, after notice to the railroad corporation, shall hear the application and all objections to the application, and make an order which is reasonable and just, and if it requires the railroad company to construct any crossing or roadway, fix the time for compliance with the order and apportion the costs as appropriate. The order of the department of inspections and appeals is subject to review by the state department of transportation. The decision of the state department of transportation is the final agency action.

359A.1. Definitions.

As used in this chapter, unless the context otherwise requires, "book", "list", "record", or "schedule" kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

359A.1A. Partition fences.

The respective owners of adjoining tracts of land shall upon written request of either owner be compelled to erect and maintain partition fences, or contribute thereto, and keep the same in good repair throughout the year.

359A.2. Trimming and cutting back.

If said fence be hedge, the owner thereof shall trim or cut it back twice during each calendar year, the first time during the month of June and the last time during the month of September, to within five feet from the ground, unless such owners otherwise agree in writing to be filed with and recorded by the township clerk.

359A.2A. Fence viewers--township trustees--authority--conflict of interest.

1. The trustees of the township where a controversy arises under this chapter shall serve as fence viewers. The fence viewers shall have authority to hear and decide all questions related to matters that are part of the controversy as provided in this chapter.
2.
 - a. A fence viewer who may have a conflict of interest in deciding a question related to a matter that is part of the controversy must disclose the possible conflict of interest to the parties and the other fence viewers prior to the fence viewers participating in the matter by conducting a hearing or making a decision under section 359A.4.
 - b. A fence viewer who has a conflict of interest in deciding a question related to a matter that is part of the controversy is disqualified from participating in the matter. The disqualification shall be made by the election of the fence viewer or unanimous vote of the fence viewers who do not have a conflict of interest in the matter. However, if three or more fence viewers do not



have a conflict of interest in the matter, the disqualification shall be made by a majority vote of those fence viewers.

3. A conflict of interest exists when a fence viewer is presented with a question to determine any matter affecting a tract of land in which the fence viewer or a person related to the fence viewer has an ownership or leasehold interest in that tract of land. That person is related to the fence viewer by being any of the following:

a. An immediate family member who is limited to any of the following:

(1) A spouse.

(2) A child, stepchild, grandchild, parent, stepparent, grandparent, sibling, stepsibling, half sibling, aunt, uncle, niece, or nephew.

(3) The spouse of any individual described in subparagraph (2).

b. A business associate who is limited to a person holding an interest in the same business entity as the fence viewer, so long as the person and the fence viewer each have a twenty-five percent or greater interest in that business entity. As used in this paragraph, "business entity" means a person organized or formed under Iowa statute or a foreign statute, and is authorized under Iowa statute to transact business in this state, either on a profit or nonprofit basis.

4. Upon the disqualification of the fence viewer, the remaining trustees shall appoint a qualified substitute fence viewer to decide each question related to a matter in controversy. If a trustee is not remaining, the township clerk shall appoint three qualified substitute fence viewers to decide each question related to a matter in controversy. However, this subsection does not apply if the township clerk selects a fence viewer as provided in section 359A.14.

5. Notwithstanding other provisions in the section to the contrary, a fence viewer who may or does have a conflict of interest in a matter that is part of the controversy may participate in the matter, including by hearing and deciding all questions related to the matter, if each party to the controversy signs a waiver. The waiver shall state that the party has been notified of the fence viewer's conflict of interest and agrees to the fence viewer's participation in the matter. The waiver shall be attached to the order issued pursuant to section 359A.4.

359A.3. Powers of fence viewers.

The fence viewers shall give five days' notice in writing to all parties to the controversy. The notice shall prescribe the time and place of the hearing to decide any and all matters that are part of the controversy as described in the notice. Upon request of any landowner, the fence viewers shall give the notice to all adjoining landowners liable for the erection, maintenance, rebuilding, trimming, or cutting back, or repairing of a partition fence, or to pay for an existing hedge or fence. The notice must include the names of the fence viewers and state whether a fence viewer disclosed a possible conflict of interest or whether a substitute fence viewer was appointed due to a fence viewer's disqualification pursuant to section 359A.2A.

359A.4. Decision—deposit.

1. At the time and place described in section 359A.3, the fence viewers shall meet to hear and decide any and all matters that are part of the controversy. The



fence viewers shall issue a written order that specifies the obligations, rights, and duties of the respective parties.

2.

a. If the fence viewers determine the erection of a fence may be unfeasible in any location which constitutes the adjoining parties' property boundary, the fence viewers shall conduct a site evaluation. The fence viewers may request assistance by the county engineer in the county where the adjoining properties' boundary is situated. The determination may be based on any of the following:

(1) Topography.

(2) Terrain.

(3) Terraces.

(4) Land slope.

(5) Unstable ground.

(6) The presence of surface water, drainage systems, sinkholes, or water wells.

(7) Easements.

(8) Utilities.

(9) Available area.

b. If the fence viewers determine the erection of a fence is unfeasible as provided in the site evaluation, the fence viewers shall assist the parties in reaching an agreement as provided in sections 359A.12 and 359A.13. However, if the parties cannot reach such agreement within sixty days after the site evaluation is completed, the fence viewers shall order the fence's erection. The fence shall be erected as otherwise provided in this section, except for any location identified as unfeasible in the site evaluation. For that location, the fence viewers shall order the fence to be erected at the most feasible location on the property of the owner who initiated the controversy that is closest to the adjoining owner's property boundary.

3.

a. The order shall assign to each owner the part which the owner shall erect, maintain, rebuild, trim or cut back, or pay for, and fix the value thereof, and prescribe the time within which the same shall be completed or paid for, and, in case of repair, may specify the kind of repairs to be made.

b. If the fence is not erected, rebuilt, or repaired within the time prescribed in the order, the fence viewers shall require the complaining landowner to deposit with the fence viewers an amount of money sufficient to pay for the erecting, rebuilding, trimming, cutting back or repairing such fence together with the fees of the fence viewers and costs. Such complaining landowner shall be reimbursed as soon as the costs and fees assessed against the party in default are collected as provided in section 359A.6.



4. The order shall include the names of the fence viewers. The order shall state whether a fence viewer disclosed a possible conflict of interest, and whether a substitute fence viewer was appointed due to a disqualification pursuant to section 359A.2A. Any waiver of a conflict of interest signed by a party shall be attached to the order.

359A.5. Contribution postponed.

In case a landowner desires to erect a partition hedge or fence when the owner of the adjoining land is not liable to contribute thereto, the fence viewers may assign to each owner the part which the owner shall erect, maintain, rebuild, and repair, trim or cut back, by pursuing the method provided in sections 359A.3 and 359A.4; but the adjoining owner shall not be required to contribute thereto until the owner becomes liable so to do, as elsewhere in this chapter provided.

359A.6. Default--costs and fees collected.

If the erecting, rebuilding, or repairing of a fence is not completed within thirty days from and after the time fixed in the order, the board of township trustees acting as fence viewers shall cause the fence to be erected, rebuilt, and repaired, and the value thereof may be fixed by the fence viewers. Unless the sum so fixed, together with all fees of the fence viewers caused by the default, is paid to the county treasurer, within ten days after the full amount due is ascertained, or when ordered to pay for an existing fence, and the value thereof is fixed by the fence viewers, and the sum, together with the fees of the fence viewers, remains unpaid by the party in default for ten days, the fence viewers shall certify to the county treasurer the full amount due from the party or parties in default, including all fees and costs assessed by the fence viewers, together with a description of the real estate owned by the party or parties in default along or upon which the said fence exists. The county treasurer shall enter the full amount due upon the county system, and the amount shall be collected in the same manner as ordinary taxes. Upon certification to the county treasurer, the amount assessed shall be a lien on the parcel until paid.

359A.7. Service of notice on nonresidents.

The notice by the fence viewers provided for in this chapter may be served upon any owner nonresident of the county where the land is situated, by publication thereof, once each week, for two consecutive weeks in a newspaper printed in the county in which the land is situated, proof of which shall be made as in case of an original notice and filed with the fence viewers, and a copy delivered to the occupant of said land, or to any agent of the owner in charge of the same.

359A.8. Orders.

All orders and decisions made by the fence viewers shall be in writing, signed by at least two of them, and filed with the township clerk.

359A.9. Notice.

All notices in this chapter required to be given shall be in writing, and return of service thereof made in the same manner as notices in actions before a judicial magistrate.

359A.10. Entry and record of orders.

Such orders, decisions, notices, and returns shall be entered of record at length by the township clerk, and a copy thereof certified by the township clerk to the county recorder, who shall record the same in the recorder's office in the manner specified in sections



558.49 and 558.52, and index such record in the name of each adjoining owner as grantor to the other. The county recorder shall collect fees specified in section 331.604.

359A.11. Record conclusive.

The record in the recorder's office, unless modified, by appeal as hereinafter provided, shall be conclusive evidence of the matters therein stated, and such record or a certified copy thereof shall be competent evidence in all courts.

359A.12. Division by agreement—record.

The several owners may, in writing, agree upon the portion of partition fences between their lands which shall be erected and maintained by each, which writing shall describe the lands and the parts of the fences so assigned, be signed and acknowledged by them, and filed and recorded in the office of the recorder of deeds of the county or counties in which they are situated. The county recorder shall collect fees specified in section 331.604.

359A.13. Orders and agreements—effect.

Any order made by the fence viewers, or any agreement in writing between adjoining landowners, when recorded in the office of the recorder of deeds, as in this chapter provided, shall bind the makers, their heirs, and subsequent grantees.

359A.14. Lands in different townships.

When the adjoining lands are situated in different townships in the same or different counties, the clerk of the township of the owner making the application shall select two trustees of the clerk's township as fence viewers, and the clerk of the other township one from that clerk's township, who shall possess, in such case, all the powers given to fence viewers in this chapter, but all orders, notices, and valuations and taxation of costs made by them must be recorded in both townships and in the office of the recorder of deeds of each county.

359A.15. Fence on another's land.

When a person has made a fence or other improvement on an enclosure, which is found to be on land of another, such person may enter upon the land of the other and remove the fence or other improvement and material, upon the first paying, or offering to pay, the other party for any damage to the soil which may be occasioned thereby, and the value of any timber used in said improvement taken from the land of such other party, if any; and if the parties cannot agree as to the damages, the fence viewers may determine them as in other cases; such removal shall be made as soon as practicable, but not so as to expose the crops of the other party.

359A.16. Right to build fence on line.

A person building a fence may lay the same upon the line between the person and the adjacent owners, so that it may be partly on one side and partly on the other, and the owner shall have the same right to remove it as if it were wholly on the owner's own land.

359A.17. Fence on one side of line.

The provisions concerning partition fences shall apply to a fence standing wholly upon one side of the division line.

359A.18. Lawful fence.



A lawful fence shall consist of:

1. Three rails of good substantial material fastened in or 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 in or 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.

359A.19. Duty to maintain tight fences.

All partition fences may be made tight by the party desiring it, and when that party's portion is so completed, and securely fastened to good substantial posts, set firmly in the ground, not more than twenty feet apart, the adjoining property owner shall construct the adjoining owner's portion of the adjoining fence, in a lawful tight manner, same to be securely fastened to good substantial posts, set firmly in the ground, not more than twenty feet apart.

359A.20. Tight fence.

All tight partition fences shall consist of:

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.

359A.21. Duty to keep fence tight.

In case adjoining owners or occupants of land shall use the same for pasturing sheep or swine, each shall keep that one's share of the partition fence in such condition as shall restrain such sheep or swine.

359A.22A. Habitual trespass.

A landowner of land where livestock are kept or an owner of adjoining land shall be liable to erect or maintain a fence if the livestock trespasses upon the land of a neighboring landowner or strays from the land where the livestock are kept onto a public road, as provided in section 169C. 6.

359A.23. Appeal.

Any person affected by an order or decision of the fence viewers may appeal to the district court by filing with the clerk of said court a notice of appeal within twenty days after the rendition of the order or decision appealed from and filing an appeal bond in an amount approved by the township clerk. The township clerk, after recording the original papers, shall thereupon file them in the office of the clerk of the district court, certifying them to be such, and the clerk shall docket them, entitling the applicant or petitioner as plaintiff, and it shall stand for trial as other cases.

359A.24. Certification of decree.

Upon the final determination of said appeal the clerk of the district court shall certify to the recorder of deeds the fact that a judgment has been entered upon such appeal, with the book and page of such judgment, and the recorder shall thereupon enter on the recorder's record a notation that a judgment on appeal has been entered and that the same may be found in the office of the clerk of the district court, in the book and page designated in said certificate.

359A.25. Record kept--fees of clerk.

The township clerk shall enter all matters herein required to be made of record in the clerk's record book, and shall receive ten cents for each one hundred words in entering of record and making certified copies of the matters herein provided for, and twenty-five cents additional for the clerk's certificate thereto when required, and shall also receive the costs of recording in the office of the recorder of deeds of any instrument required to be so recorded.

