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## States' Fence Statutes: *Wisconsin*



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# A National Agricultural Law Center Research Publication

## States' Fence Statutes: Wisconsin

**Wis. Stat. §§ 90.01-90.21, 101.18, 172.01-172.57, 182.017, 192.33-192.38, 192.53;**

*Acts 8 through 19 and quickloads for sections 108.04 and 108.133, published May 25, 2021.*

### **90.01 Fence viewers.**

The supervisors in their respective towns, the alderpersons of cities in their respective aldermanic districts, and the trustees of villages in their respective villages shall be fence viewers.

### **90.02 Legal fences; space between ground and bottom.**

(1) In this section, "high tensile wire" means wire with a tensile strength of 1,235 to 1,450 mega pascals or 179,000 to 210,000 pounds per square inch.

(1m) The following and none other are legal and sufficient fences:

(a) A fence of strong woven wire not less than 26 inches wide with 3 barbed wires or 3 high tensile wires above.

(b) A fence of strong woven wire not less than 30 inches wide with 2 barbed wires or 2 high tensile wires above.

(c) A fence of strong woven wire not less than 46 inches wide with one barbed wire or one high tensile wire above.

(d) A fence of strong woven wire not less than 50 inches wide.

(e) A fence of boards firmly fastened to posts well set, not more than 8 feet apart, the space between the boards to the height of 30 inches to be not more than 6 inches and at no point to be more than 10 inches.

(f) A fence of 2 boards with 3 barbed wires or 3 high tensile wires above, firmly fastened to sufficient posts well set not more than 8 feet apart, the space between the boards to be not more than 6 inches.

(g) A fence of 3 or more wires not less than No. 12, with pickets not less than 4 feet long properly woven in or fastened thereto, and set not more than 6 inches apart.

(h) All fences consisting of rails, boards, wires or walls, or any combination thereof, and all brooks, rivers, ponds, creeks, ditches, or hedges, which shall, in the judgment of the fence viewers, be equivalent to either of the fences before mentioned.

(i) The following minimum requirements shall constitute a standard electric fence and shall be a legal fence when agreed to in writing by the adjoining property owners. Such a fence shall consist of 2 strands of strong, tightly stretched wire, charged by a standard approved electric or battery fencer, and the top wire not over 36 inches and not less than 34 inches from the ground, measured at the post, and firmly



fastened with insulators to sufficient post, firmly set, and not over 2 rods apart.

(j) A fence not less than 48 inches high of 4 or more barbed wires or high tensile wires spaced evenly on a steel post of any diameter or on a wood post at least 3 inches in diameter. Existing fences of a lesser standard are legal until they are rebuilt, repaired or replaced.

(2) The strands of woven wire shall not be smaller than No. 12 wire and the cross wires shall not be smaller than No. 16 wire; the strands shall not be more than 8 inches apart, and the cross wires not more than 12 inches apart. All wires must be tightly stretched and securely fastened to sufficient posts firmly set not more than 16 feet apart, except as provided in sub. (1m)(f) or (i) and except that the posts may be set not more than 20 feet apart if the wire is high tensile wire. The space between barbed wires or high tensile wires shall not exceed 8 inches; and the space between the top board or upper edge of woven wire and the bottom barbed wire or high tensile wire shall not exceed 6 inches.

(3) Fences shall not be less than 50 inches high, and the bottom of the fence shall be not more than 4 inches from the ground, measurements to be made at the posts.

### **90.03. Partition fences; when required.**

The respective occupants of adjoining lands used and occupied for farming or grazing purposes, and the respective owners of adjoining lands when the lands of one of such owners is used and occupied for farming or grazing purposes, shall keep and maintain partition fences between their own and the adjoining premises in equal shares so long as either party continues to so occupy the lands, except that the occupants of the lands may agree to the use of markers instead of fences, and such fences shall be kept in good repair throughout the year unless the occupants of the lands on both sides otherwise mutually agree.

### **90.035 Public fences.**

Where the 2 parties, one of whom is the state or a subdivision thereof, agree that a fence is reasonably necessary, the duty to erect and maintain partition fences shall apply equally to the state, as provided in s. 90.03, and its subdivisions as occupants of lands whenever such lands are bounded by privately owned agricultural or grazing lands.

### **90.04 Effect of fences on action for trespass by animals.**

Owners of lands who do not maintain and keep in repair lawful partition fences may not recover any damages for trespasses by the animals of owners of any adjoining lands with whom partition fences might have been maintained if such lands had been enclosed; but the construction of such a fence does not relieve the owner of swine, horses, sheep or goats from liability for any damage they commit upon the enclosed premises of an adjoining owner.

### **90.05 How partition made.**

(1)

(a) Every partition of a fence or of the line upon which partition fences are to be built between owners of adjoining lands, after being recorded in the town clerk's office, obligates the owners, their heirs and assigns to build and maintain the fence in accordance with the partition, if any of the following conditions is met:

1. The partition is made by the owners of the adjoining lands and is in writing, signed and sealed by the owners and witnessed by 2 witnesses.



2. The partition is made by fence viewers in the manner provided under this chapter and is in writing under their hands.

(b) A partition made in accordance with par. (a) shall remain in effect so long as the adjoining land on each side respectively remains in the same ownership, and after a severance of ownership until a new partition of the fence is made.

(c) An owner, or the owner's heirs or assigns, are not obligated to build or maintain any part of a partition fence during any time when none of the adjoining lands is occupied for farming or grazing.

(2) If a fence is constructed by a subdivider under a town ordinance adopted under s. 60.23(19) and the land adjoining the subdivision is not subdivided, the partition under sub. (1) shall require that an undivided one-half of the fence be maintained by the owner of the adjoining land not subdivided and one-half of the fence divided into equal shares be maintained by all of the owners of the adjoining subdivided land.

#### **90.06 Relocation of fence.**

(1) When any owner or occupant of land builds a fence before a boundary line has been located between that land and any adjoining land and the location of the boundary line establishes that the fence is located on the adjoining land, the person who built the fence or that person's grantee, devisee or heirs shall be the owner of the fence. The owner of the fence shall relocate the fence to the boundary line within 30 days after service of written notice of the location of the fence upon the owner of the fence by the owner or occupant of the land upon which the fence is located.

(2) The notice under sub.(1) shall be served personally on the fence owner or by leaving a copy of the notice at the fence owner's usual place of abode with some member of the fence owner's family who is of suitable age and discretion. If the notice is left with a family member, the family member shall be informed of the contents of the notice.

(3) If the relocation of the fence is not made within 30 days after service of the notice under sub. (2), the party who served or caused the notice to be served may relocate the fence to the boundary line and recover the expense of doing so from the fence owner. However, no fence that is subject to relocation under this section shall be relocated by the party giving the notice during a time when annual crops will be damaged unless the owners or occupants of the adjoining lands mutually agree.

#### **90.07 Division of partition fence.**

(1) A division of a partition fence, or the line upon which a partition fence between adjoining lands shall be built, may be made by fence viewers in the following cases:

(a) When a division of a partition fence, or the line upon which a partition fence between adjoining lands shall be built, shall not have been made in the manner prescribed by [s.90.05](#), either of the owners of adjoining lands may have the line between that person's land and the adjoining land of any other person divided, and the portion upon which the respective owners shall erect their share of the partition fence assigned, regardless of whether that person's land be enclosed or not and regardless of whether such adjoining land be enclosed or not.

(b) When any lands belonging to different persons in severalty shall have been



occupied in common or without a partition fence between them and one of the occupants shall be desirous to occupy that occupant's part in severalty, and the other shall refuse or neglect, on demand, to divide with the desiring occupant the line where the fence ought to be built or to build a sufficient fence on the part of the line belonging to the other occupant, when divided, the occupant desiring it may have the same divided and the share of each assigned.

(c) When any controversy shall arise about the right of the respective occupants in partition fences or their obligation to maintain the same, either party may have the line divided and the share of each assigned.

(2) In either such case application may be made to 2 or more fence viewers of the town where the lands lie or to 2 or more fence viewers of 2 towns, if the lands lie in 2 towns, who, after 8 days' notice in writing to each party to be served as a summons is in a civil action in a court of record or by registered mail with return receipt requested in the case of a party who does not reside in this state, shall, in writing, divide the partition fence or line and assign to each owner or occupant that party's share thereof; and in each of said cases they shall also therein direct the time within which each party shall build or repair, as may be proper, that party's share of the fence, having regard to the season of the year, and shall file such decision in the town clerk's office, who shall record the same. If either party refuses or neglects to build or repair within the time so assigned that party's part of the fence the other may, after having completed his or her own part, build or repair such part and recover the expense thereof as provided in [s. 90.11](#).

(3) Whenever practicable, in determining the division of a new line fence, when facing a farm, going around the farm to the right, the first one-half of the line fence belongs to the farm faced.

#### **90.08 Partition of fences in water.**

Where a partition fence running into the water is necessary to be made the same shall be done in equal shares unless otherwise agreed by the parties, and in case either party shall refuse or neglect to make or maintain the share belonging to that party similar proceedings shall be had as in case of other fences and with the like effect.

#### **90.09 Partition when land bounded by water.**

(1) When the boundary line between enclosed lands owned by different persons is a river, brook, pond or creek, which of itself is not a sufficient fence, and it is impracticable, without unreasonable expense, for a partition fence to be built on the true boundary line, and either owner or occupant refuses to join in making a partition fence on either side of the river, brook, pond or creek, or they disagree respecting making a partition fence, either party may apply to 2 or more fence viewers of the town, who, after giving notice as provided in s. 90.07, shall proceed to view the river, brook, pond or creek.

(2) If the fence viewers determine that the river, brook, pond or creek is not a sufficient fence and that it is impracticable, without unreasonable expense, to build a fence on the true boundary line, the fence viewers shall, in writing under their hands, determine how or on which side of the river, brook, pond or creek the fence shall be built or whether the fence shall be built partly on one side and partly on the other side. The fence viewers shall assign to each owner or occupant that owner's or occupant's share of the fence and the time within which the respective parties shall build the fence. The fence viewers shall file their determination in the office of the town clerk, who shall record the determination.



(3) If either party refuses or neglects to build that party's part of the fence within the time assigned by the fence viewers, the other party may, after having completed his or her own part, build the other party's part and recover the expense of building the other party's part of the fence as provided under s. 90.11.

(4) If the fence viewers determine that it is impracticable, either from the formation of the banks of the river, brook, pond or creek or for any other reason, to maintain any fence along or near the boundary line, they shall give written notice to the parties of that determination.

#### **90.10 Compulsory repair of fence.**

If any person neglects to repair or rebuild any partition fence that by law that person is required to maintain, the aggrieved party may complain to 2 or more fence viewers of the town, who, after giving notice as provided in s. 90.07, shall examine the fence. If the fence viewers determine that the fence is insufficient, they shall inform the delinquent party of the insufficiency and direct the delinquent party to repair or rebuild the fence within a time that the fence viewers determine is reasonable. If the fence is not repaired or rebuilt within the time fixed by the fence viewers, the complainant may repair or rebuild the fence and recover the expense of repairing or rebuilding the fence as provided under s. 90.11.

#### **90.11 Cost of repairs.**

(1)

(a) Whenever any owner or occupant of land has built, repaired or rebuilt any fence, pursuant to the provisions of this chapter, that the adjoining owner or occupant has been lawfully directed by fence viewers to build, repair or rebuild but has failed to do within the time prescribed, the owner or occupant who built, repaired or rebuilt the fence may complain to any 2 or more fence viewers of the town.

(b) The fence viewers complained to under par. (a) shall, after having given notice to the defaulting adjoining owner or occupant as provided in s. 90.07, examine the fence and ascertain the expense of building, repairing or rebuilding the fence. If the fence viewers adjudge the fence sufficient they shall give to the complaining party a certificate under their hands of their decision and of the amount of the expense of building, repairing or rebuilding the fence and of the fees of the fence viewers.

(c) Upon receipt of the fence viewers' certificate, the complaining party may demand the amount of the expense determined by the fence viewers, together with the fence viewers' fees, from the defaulting, adjoining owner or occupant. If the adjoining owner or occupant fails to pay the expenses and fees for one month after the complaining party has demanded payment, the amount of expenses and fees together with interest at the rate of 1 percent per month shall constitute a special charge and lien against the adjoining owner's or occupant's lands and may be recovered in the manner provided in sub. (2).

(2)

(a) The complaining party may file the certificate executed and delivered to him or her under sub. (1)(b) with the clerk of the town in which the lands charged with the expense and fees set forth in the certificate are located. Upon the filing of the certificate, the town clerk shall issue a warrant for the amount of the listed expenses and fees upon the town treasurer payable to the person to whom the certificate was executed and delivered.



(b) The amount paid by the town treasurer under par. (a) together with interest at the rate of 1 percent per month shall be included by the town clerk in the next tax roll as a special charge against the lands charged with the expense and fees. The special charge shall be collected by the town treasurer with the other taxes in the town. Any special charge under this paragraph remaining unpaid shall be added to the list of delinquent taxes returned to the county treasurer. The county treasurer shall collect the delinquent special charge or sell the land as for delinquent taxes. All proceedings in relation to the sale of land for a delinquent special charge shall be the same in all respects as in the case of land sold for other delinquent taxes. Every county treasurer who shall collect or receive any moneys on account of delinquent charges under this subsection shall pay the moneys received to the treasurer of the proper town.

#### **90.12 Apportionment of cost of fence.**

When, in any controversy that may arise between occupants of adjoining lands as to their respective rights in any partition fence, it shall appear to the fence viewers that either of the occupants had, before any complaint made to them, voluntarily erected the whole fence, or more than that occupant's just share of the same, or otherwise become proprietor thereof, the other occupant shall pay for so much as may be assigned to him or her to repair or maintain; the just value thereof which the other occupant ought to pay shall be ascertained by proceeding as prescribed in s. 90.11.

#### **90.13 Partition fence on newly enclosed land.**

(1) When any previously unenclosed land is enclosed, the owner or occupant of the newly enclosed land shall pay for 50% of each partition fence standing upon the line between that owner's or occupant's land and the enclosure of any other owner or occupant, unless the line has been previously divided. If the line has been previously divided, the owner or occupant of the newly enclosed land shall pay the value of the fence on the part of the line previously assigned to that owner or occupant. In either case, the value of the fence at the time shall be ascertained on the application of either adjoining owner or occupant as provided in s. 90.11, if the parties do not agree.

(2) If the responsible owner or occupant fails to pay the value for 60 days after the value has been ascertained and demand made, the proprietor of the fence may recover the value with the fence viewers' fees and costs.

#### **90.14 Fence on town line.**

In all cases where the line upon which a partition fence is to be made or to be divided is the boundary line between towns or partly in one town and partly in another a fence viewer shall be taken from each town; and divisions of such fences by them or by agreement of the parties shall be recorded in the office of the clerk of each town.

#### **90.15 Fees of viewers; neglect of duty.**

A fence viewer is entitled to the following fees and expenses for services rendered under this chapter: daily employment, mileage, service of notice or process and folios written. The rate of pay for the fees and expenses shall be set by the viewer's city, village or town. The fees and expenses shall be paid equally by the parties to the controversy, and if any of them neglect to pay the same within 30 days after the services are performed, each fence viewer may recover from delinquent parties jointly double the amount of the fees and expenses. A



fence viewer who neglects to perform his or her duties shall forfeit \$5 and be liable to the injured party for damages. Fence viewers may administer oaths for purposes of this chapter.

### **90.16 Record of partition.**

Every partition of a division fence or line made by fence viewers, signed and recorded as hereinbefore provided, and the record or a certified copy thereof, shall be presumptive evidence of the regularity of all the proceedings prior to the making thereof.

### **90.20 Fencing of farm-raised deer that are not white-tailed deer.**

**(1) Definitions.** In this section:

- (a) "Farm-raised deer" has the meaning given in s. 95.001(1)(ag).
- (b) "Heavily galvanized" means having a zinc coating weighing 230 grams per square meter or 0.8 ounces per square foot.
- (c) "High tensile" means having a tensile strength of 179,000 to 210,000 pounds per square inch.
- (d) "Medium tensile" means having a tensile strength of 101,000 to 123,000 pounds per square inch.

**(2) Specifications.** Unless s. 90.21 or 95.55(1)(c) applies, any person who keeps farm-raised deer shall keep the farm-raised deer enclosed by a fence that meets all of the following requirements:

- (a) Except for animals of the genus rangifer, the fence is at least 7 feet 10 inches high and is a woven wire fence that satisfies sub. (3), is a high tensile fence that satisfies sub. (4) or, if made of other materials, is of a design and level of strength that provides equivalent retentive capacity. The top 6 inches of the fence may consist of a single strand of smooth high tensile wire.
- (b) For animals of the genus rangifer, the fence is at least 5 feet high and is a woven wire fence that satisfies sub. (3), is a high tensile fence that satisfies sub. (4) or, if made of other materials, is of a design and level of strength that provides equivalent retentive capacity.
- (c) If the fence is made with wood posts, all of the following apply:
  - 1. The posts are at least 12 feet long.
  - 2. The tops of the line posts are, if rectangular, at least 3.5 inches in the smallest dimension or, if round, at least 3.5 inches in diameter.
  - 3. The tops of the corner and gate posts are, if rectangular, at least 5.5 inches in the smallest dimension or, if round, at least 5.5 inches in diameter.
  - 4. The wires are held securely to the posts, allowing for free movement of the horizontal line wires, using 9-gauge staples of at least 1.5 inch size.
- (d) If the fence is made with steel or iron posts, the posts are at least 11 feet long or, if the posts are of the type known as T post, the posts are at least 10 feet long.
- (e) The wires are installed on the side of the fence toward the farm-raised deer



except at corners.

**(3) Woven wire fence.** A woven wire fence satisfies the requirements of this subsection if all of the following apply:

- (a) The wire is 14 ½ gauge or heavier.
- (b) If the wire is 14 ½ gauge, the mesh is not larger than 36 square inches.
- (c) If the wire is heavier than 14 ½ gauge, the mesh is not larger than 48 square inches.
- (d) The posts are not more than 12 feet apart.

**(4) High tensile fence.** A high tensile fence satisfies the requirements of this subsection if all of the following apply:

- (a) The horizontal line wires are not less than 2.5 millimeters in size and are heavily galvanized high tensile wire.
- (b) The vertical stay wires are not less than 2.5 millimeters in size and are heavily galvanized medium tensile wire.
- (c) The knot wire is not less than 2.24 millimeters in size and is heavily galvanized mild steel.
- (d) The distance between vertical stay wires is not more than 6 inches.
- (e) The distance between horizontal line wires is not more than 4 inches in the bottom foot of the fence, is not more than 6.5 inches in the next 2 feet of the fence and is not more than 8.5 inches in the rest of the fence.
- (f) The posts are not more than 20 feet apart.

#### **90.21 Fencing of farm-raised deer; white-tailed deer.**

**(1) Definitions.** In this section:

- (a) “Department” means the department of natural resources.
- (b) “Farm-raised deer” has the meaning given in s. 95.001(1)(ag).

**(2) Requirements.**

- (a) No person may keep farm-raised deer if any of the farm-raised deer are white-tailed deer unless all of the farm-raised deer are contained in a fenced area for which the person holds a valid fence inspection certificate issued by the department under this section.
- (b) The department may not issue a fence inspection certificate under this section for a fence that is used to contain farm-raised deer that are white-tailed deer unless the fence meets the requirements established by the department by rule under sub. (6).
- (c) No person may apply for registration under s. 95.55 in order to keep farm-raised deer that are white-tailed deer without being first issued a fence inspection certificate under this section.
- (d) Notwithstanding pars. (a) and (b), a person may keep farm- raised deer and



the department shall issue a fence inspection certificate under this section if the fence complies with s. 95.55(1)(c)2.

### **(3) Fees.**

(a) The fee for a fence inspection certificate issued under this section is \$50 for a fenced area that is less than 80 acres in size and \$100 for a fenced area that is 80 acres or more in size.

(b) If a person expands a fenced area that is less than 80 acres in size during the period that the fence inspection certificate issued under this section is valid so that the fenced area is 80 acres or more in size, the person shall apply for a new fence inspection certificate and pay an additional fee of \$50.

(c) A fence inspection certificate issued under par. (a) or (b) shall be valid from the date of issuance until the 10th December 31 following the date of issuance.

**(4) New operations; driving out of wild deer.** A person who is starting an operation to keep farm-raised deer that are white-tailed deer and who is applying for a fence inspection certificate under this section shall make a reasonable effort to drive any wild white-tailed deer from the area to be fenced before the area is completely closed. No person may place any baiting material in attempt to attract white-tailed deer to remain in the fenced area. If the department issues a certificate under this section, the department shall determine whether any white-tailed deer remaining in the area after the area is completely closed will be killed or will be sold to the holder of the certificate. If the white-tailed deer are to be killed, the department shall determine how the deer will be killed. If the white-tailed deer are to be sold, the holder of the certificate shall pay the department the fair market value for each deer.

**(5) Existing operations.** A person who holds a license under s. 29.871, 1999 stats., on January 1, 2003, may continue to keep white-tailed deer, and the department shall automatically issue the person a fence inspection certificate under this section that will be valid during the period beginning on January 1, 2003, and ending on the 30th day after the effective date of the rules promulgated under sub. (6).

**(6) Rules.** The department shall promulgate rules to establish requirements for fences for which fence inspection certificates are issued under this section. If the rules include provisions authorizing the placement of fences in navigable bodies of water, s. 30.12 does not apply to fences placed in compliance with these rules.

**(7) Enforcement authority.** If a fence fails to comply with the requirements established by rule under sub. (6), the department may issue an order directing the person who is required to maintain the fence to bring the fence into compliance within 10 days after the issuance of the order. If the person fails to comply with the order within 10 days of its issuance, the department may revoke the applicable fence inspection certificate.

### **(8) Penalties.**

(a) Any person who violates this section, or a rule promulgated under this section, shall be subject to a forfeiture of not more than \$200.

(b) In addition to or in lieu of the forfeiture specified in par. (a), a court may suspend a fence inspection certificate issued under this section, a registration issued under [s. 95.55](#) that authorizes the defendant to keep farm-raised deer, or both, for



a period of up to 3 years.

(c) The department may revoke any fence inspection certificate issued under this section to which any of the following applies:

1. The holder fails to comply with an order issued under sub. (7).
2. The department determines that the certificate was fraudulently procured, or erroneously issued.

### **101.18 Electric fences.**

The department shall ascertain, fix and order such reasonable standards, rules or regulations for the erection, construction, repair and maintenance of electric fences as shall render them safe.

### **172.01 Animals not to run at large.**

No stallion over one year old, nor bull over 6 months old, nor boar, nor ram, nor billy goat over 4 months old shall run at large. If the owner or keeper of an animal described in this section, for any reason, permit the animal to run at large, the owner or keeper shall forfeit \$5 to the person taking up the animal and shall be liable in addition for all damages done by the animal while at large, regardless of whether the animal's escape was the fault of the owner or keeper. The construction of any fence enumerated in s. 90.02 does not relieve an owner or keeper from liability for any damage committed by an animal described in this section upon the enclosed premises of an adjoining owner.

### **172.012 Exemption.**

This chapter does not apply to a humane officer appointed under ch. 173 or a law enforcement officer who takes custody of an animal under ch. 173 or other applicable law.

### **172.015 Livestock on highways; penalty.**

No livestock shall run at large on a highway at any time except to go from one farm parcel to another. If the owner or keeper of livestock knowingly permits livestock to run at large on a highway, except when going from one farm parcel to another, and after notice by any peace officer fails to remove the livestock from the highway, the owner or keeper may be fined not more than \$200.

### **172.02 Taking up animal; notice.**

Any person finding any animal described in s. 172.01 running at large may take it up, but shall within 7 days after taking up the animal notify the owner, if known to the person, and request the owner to pay all reasonable charges for the animal's keeping, together with the forfeiture required under s. 172.01 for taking up, and take the animal away within 5 days after being so notified.

### **172. 03 Notice, if owner unknown.**

If the owner of an animal taken up under s. 172.02 is unknown, the finder shall, within 10 days after taking up the animal, file a notice with the clerk of the town in which the animal is taken up and, if the value of the animal exceeds \$50, shall publish in the county a class 3 notice, under ch. 985. The notice shall briefly describe the animal, by marks natural or artificial, as near as practicable, and give the name and residence of the finder and the time when



the animal was taken up. A copy of the notice shall be sent immediately by the town clerk to the county clerk, who shall file the notice.

#### **172.04 Appraisal of animals.**

The finder of animals taken up under s. 172.02 shall, within one month from taking them up, if the animals are of the value of \$10 or more, apply to the town chairperson, village president or city mayor of the municipality where found for the appointment of a disinterested appraiser. A certificate of the appraisal shall be signed by the appraiser and filed in the municipal clerk's office. The finder shall pay the appraiser \$3 for the certificate and 10 cents per mile for every mile necessarily traveled by the appraiser.

#### **172.05 Restoring an animal to its owner.**

The owner or person entitled to the possession of an animal taken up under s. 172.02, at any time within 90 days after notice is filed with the municipal clerk under s. 172.03, may have the animal restored upon proving rights to the animal and paying all lawful charges incurred. If the claimant and the finder cannot agree as to the amount of the charges or for the use of the animal either party upon notice to the other may apply to the town chairperson, village president or city mayor or manager of the municipality to settle the dispute, who for that purpose may examine witnesses on oath. Any amount found to be due the finder over the value of the use of the animal, together with the costs of adjudication, shall be a lien upon the animal.

#### **172. 06 Ownership by finder; sale.**

If no claimant for an animal taken up under s. 172.02 causes its return, and if the animal has not been appraised for more than \$10, the finder shall become the absolute owner of the animal. If the appraised value of the animal exceeds \$10, the animal shall be sold at public auction by the sheriff or any constable of the county on the request of the finder. Notice of the sale shall be given and the sale shall be conducted and the same fees allowed as in the case of sales upon execution under ch. 815. The finder may bid at the sale and shall at the time of sale deliver to the officer conducting the sale a statement in writing of the finder's charges, which shall be filed by the officer with the municipal treasurer. After deducting the finder's charges, if just and reasonable, and the costs of the sale, the officer shall pay one-half of the remaining proceeds to the finder and, within 10 days after the sale, the other half to the treasurer of the municipality for its use. If the finder of any stray neglects or refuses to cause a sale to be made when required by law, the finder shall pay to the municipality the value of the stray, to be recovered in an action by the municipality.

#### **172.07 Penalties.**

If any person, without the consent of the finder, takes any animal lawfully taken up from the finder's possession, without the payment of the finder's lawful charges incurred in relation to the animal, the person taking the animal shall be liable to the finder for the value of the animal. If the finder neglects to give the notices, procure the appraisals or perform any of the duties required of the finder, the finder shall be precluded from acquiring any right of property in the animal or receiving any charges or damages relative to the animal.

#### **172.08 Rams may be taken up; liability.**

(1) If the owner of any ram permits the ram to go at large or out of the ram's enclosure between July 15 and December 1 in the same year, the owner shall forfeit \$10 for each time that the ram is found at large and taken up, 50% of which shall be paid to the



prosecutor. The owner shall also be liable for any damages sustained by any person in consequence of the ram running at

(2) Any person may take up a ram described in sub. (1), and shall within 24 hours after taking up the ram do one of the following:

(a) If the owner of the ram is known, notify the owner that the ram has been taken up and of the place where the ram is secured.

(b) If the owner of the ram is unknown, file with the town clerk a notice of the taking up, describing the marks of the ram, natural and artificial, if any, and also post copies of the notice in 3 public places in the town.

(3) The owner of a ram taken up under this section may, within 6 days after the filing and posting of the notices under sub. (2), pay or tender to the town clerk the forfeiture under sub. (1) and 50 cents for the town clerk's fees. Upon payment of the forfeiture and fees, the ram shall be restored to the owner and the clerk shall immediately pay one-half of the forfeiture to the person who took the ram up and the other half to the county treasurer. If the ram's owner fails to pay the forfeiture and fees in the 6-day period under this subsection, the ram shall become the property of the person who took up the ram.

#### **172.51 Animals distrained; proceedings.**

(1) The owner or occupant of any lands may distrain any beast doing damage on the premises, either while upon the premises or upon immediate pursuit of the beasts escaping from the premises and before returning to the enclosure of or to the immediate care of the owner or keeper. The person distraining the beasts may keep the beasts upon the premises or in a public pound in the person's town, city or village of residence until the person's damages are appraised.

(2) If the owner of the beasts is known to the person distraining the beasts and resides within the same county, the person distraining the beasts shall give written notice to the owner in accordance with whichever of the following applies:

(a) If the owner resides within the same town, city or village as the person distraining the beasts, notice shall be given within 24 hours, Sundays excepted, after the animal is distrained.

(b) If the owner does not reside in the same town, city or village as the person distraining the beasts, notice shall be given within 48 hours, Sundays excepted.

(3) The notice under sub. (2) shall specify all of the following:

(a) The time when and the place where the beasts were distrained.

(b) The number of beasts distrained and the place of their detention.

(c) That at a time, which shall not be less than 12 hours after the serving of the notice nor more than 3 days after distraining the beasts, and place designated in the notice, the person distraining will apply to the town chairperson, village president or city mayor or manager of the municipality where the beasts were found for the appointment of 3 disinterested freeholders of the town, city or village to appraise the damages.

(4) If the owner of the beasts is unknown or does not reside in the same county as the



person distraining the beasts, the person distraining the beasts shall, in accordance with sub. (3) (c), apply for the appointment of appraisers without notice and within 24 hours after distraining the beasts.

(5) Upon application, the town chairperson, village president or city mayor or manager shall appoint in writing 3 disinterested freeholders of the town, city or village to appraise the damages. The appraisers shall receive 50 cents for the appointment.

### **172.52 Appraisal.**

The freeholders appointed as appraisers under s. 172.51 shall be immediately notified and shall immediately repair to the place damaged by the animals and view the damages done. The appraisers may take evidence of any witnesses of the facts and circumstances necessary to enable them to ascertain the extent of the damages and the sufficiency of any line fence on the premises where the damage was done, if any dispute arises regarding the damages or line fence. The appraisers may administer oaths to the witnesses. The appraisers shall certify under their hands the amount of damages, the cost of keeping the beasts to that time, their fees for services as appraisers not exceeding \$1 per day each, and their determination as to the sufficiency of the line fence, if in dispute. The appraisers' decision as to damages and sufficiency of the fence is conclusive.

### **172.53 Impounding; care; expense.**

(1) Unless the damages determined under s. 172.52, together with the fees of the appraisers and chairperson, president or mayor, have been paid within 24 hours after the appraisal, the person distraining the beasts shall cause the beasts to be confined in accordance with whichever of the following applies:

- (a) The beasts shall be put into the nearest pound in the distraining person's town, city or village of residence, if there is a pound.
- (b) If there is no pound in the distraining person's town, city or village of residence, the beasts shall be put in some other secure enclosure.

(2) The beasts shall remain confined until sold under ss. 172.54 to 172.56, until the damages, fees and costs of keeping the beasts after appraisal are paid or until they are otherwise seized or discharged according to law. The confined beasts shall be furnished with suitable food from the time of seizure until they are discharged or sold. The expense of feeding the beasts, after the appraisal, shall be added to the amount determined under s. 172.52 and paid as additional costs. If the beasts are put in a pound, the certificate of appraisal shall be delivered to the keeper of the pound.

### **172.54 Time and notice of sale.**

The poundmaster of any pound shall receive and keep any beasts delivered to the poundmaster under s. 172.53. Unless the beasts are seized or discharged according to law within 6 days, from the time of their delivery to the pound, the poundmaster shall sell at public auction the beasts or so many of them as is necessary to pay the damages, fees and costs enumerated under ss. 172.52 and 172.53. The poundmaster shall give 2 days' notice of the sale by notice posted upon the pound and at 3 public places in the town, city or village in which the pound is located.

### **172.55 Sale of animal not impounded.**



If in consequence of there being no pound within the distraining person's city, town or village of residence the beasts distrained under s. 172.51 are kept in some other enclosure and the beasts are not discharged in the manner provided under this chapter within 6 days after being placed in the enclosure, the sheriff or any constable of the county shall sell the beasts or so many of them as shall be necessary to pay the damages, fees and costs of keeping, upon the same notice as is required in case of a constable's sale of personal property taken by execution.

#### **172.56 Proceeds of sale.**

(1) From the proceeds of the sale under s. 172.54 or 172.55, the person making the sale shall retain his or her fees, which shall be the same as are allowed to constables upon sales of personal property on execution, and the cost of keeping the beasts. The person making the sale shall pay to the person who distrained the beasts the damages certified under s. 172.52, with the fees of the appraisers and chairperson, president or mayor.

(2) Any surplus remaining after distribution of the proceeds under sub. (1) shall be paid to the owner of the beast, if known. If no owner appears at the time of sale or within one week after the sale, and claims the surplus, it shall be paid to the treasurer of the distraining person's town, city or village of residence. If the money is not applied for within one year after the sale, the treasurer shall place the money in the town treasury. If the owner applies for the surplus and gives proper proof of ownership within 6 years after its receipt by the treasurer, the surplus, less a 2% deduction for fees, shall be paid over to the owner.

#### **172.57 Damaging, or taking animal from, pound.**

Any person who willfully damages any pound maintained or supported by any town, city, village or county or wrongfully and forcibly takes, drives or releases from the pound any animal lawfully confined in the pound shall forfeit not more than \$50.

#### **182.017 Transmission lines; privileges; damages.**

(7) High-voltage transmission lines. Any easement for rights-of-way for high-voltage transmission lines as defined under s. 196.491 (1) (f) shall be subject to the conditions and limitations specified in this subsection.

(a) The conveyance under ch. 706 and, if applicable, the petition under s. 32.06 (7), shall describe the interest transferred by specifying, in addition to the length and width of the right-of-way, the number, type and maximum height of all structures to be erected thereon, the minimum height of the transmission lines above the landscape, and the number and maximum voltage of the lines to be constructed and operated thereon.

(b) In determining just compensation for the interest under s. 32.09, damages shall include losses caused by placement of the line and associated facilities near fences or natural barriers such that lands not taken are rendered less readily accessible to vehicles, agricultural implements and aircraft used in crop work, as well as damages resulting from ozone effects and other physical phenomena associated with such lines, including but not limited to interference with telephone, television and radio communication.

(c) In constructing and maintaining high-voltage transmission lines on the property covered by the easement the utility shall:

1. If excavation is necessary, ensure that the top soil is stripped, piled and



replaced upon completion of the operation.

2. Restore to its original condition any slope, terrace, or waterway which is disturbed by the construction or maintenance.
3. Insofar as is practicable and when the landowner requests, schedule any construction work in an area used for agricultural production at times when the ground is frozen in order to prevent or reduce soil compaction.
4. Clear all debris and remove all stones and rocks resulting from construction activity upon completion of construction.
5. Satisfactorily repair to its original condition any fence damaged as a result of construction or maintenance operations. If cutting a fence is necessary, a temporary gate shall be installed. Any such gate shall be left in place at the landowner's request.
6. Repair any drainage tile line within the easement damaged by such construction or maintenance.
7. Pay for any crop damage caused by such construction or maintenance.
8. Supply and install any necessary grounding of a landowner's fences, machinery or buildings.

(d) The utility shall control weeds and brush around the transmission line facilities. No herbicidal chemicals may be used for weed and brush control without the express written consent of the landowner. If weed and brush control is undertaken by the landowner under an agreement with the utility, the landowner shall receive from the utility a reasonable amount for such services.

(e) The landowner shall be afforded a reasonable time prior to commencement of construction to harvest any trees located within the easement boundaries, and if the landowner fails to do so, the landowner shall nevertheless retain title to all trees cut by the utility.

(f) The landowner shall not be responsible for any injury to persons or property caused by the design, construction or upkeep of the high-voltage transmission lines or towers.

(g) The utility shall employ all reasonable measures to ensure that the landowner's television and radio reception is not adversely affected by the high-voltage transmission lines.

(h) The utility may not use any lands beyond the boundaries of the easement for any purpose, including ingress to and egress from the right-of-way, without the written consent of the landowner.

(i) The rights conferred under pars. (c) to (h) may be specifically waived by the landowner in an easement conveyance which contains such paragraphs verbatim.

### **192.33 Fences, cattle guards, crossings.**

(1) Subject to [s. 190.09](#), every corporation operating any railroad shall erect and maintain on both sides of its railroad, depot grounds excepted, sufficient fences with openings or gates or bars therein, and suitable and convenient farm crossings for the use of the



occupants of the lands adjoining and shall maintain cattle guards at all highway crossings, outside of municipalities, and connect their fences therewith. This section shall not apply to that part of the railroad where sidetracks or switch tracks are used in cities of the 1st class.

(2) All fences and cattle guards required under sub. (1) shall be made within one month from the time of commencing to operate the railroad right-of-way, so far as operated. Until the required fences and cattle guards are made, the railroad corporation owning or operating the right-of-way shall be liable for all damages done to domestic animals, or persons on the right-of-way, occasioned in any manner, in whole or in part, by the want of the required fences or cattle guards. After the required fences and cattle guards are constructed the railroad conformations liability shall not extend to damages occasioned in part by contributory negligence, nor to defects existing without negligence on the part of the corporation or its agents.

(3) The sufficiency of fences shall be determined according to ch. 90; but nothing in this section shall render any fence insufficient which was a legal or sufficient fence when built.

(4) No fence shall be required in places where ponds, lakes, watercourses, ditches, hills, embankments or other sufficient protection renders a fence unnecessary to prevent domestic animals from straying upon the right-of-way.

(5) The maintenance of cattle guards may be omitted by the railroad company with the written consent of the office specifying the particular crossings.

#### **Fences; complaint of insufficient; hearing; order.**

Upon complaint by the owner or occupant of any land contiguous to the right-of-way of any railroad that the railroad company operating the line has failed to construct or keep in good repair fences along its right-of-way opposite to the complainant's land as required under s. 192.33, the office shall proceed on the complaint in the manner provided in s. 195.04. If it shall appear that the complaint is well founded, the office may order and direct the railroad company to repair the complained of fences so that the fences will be sufficient or to construct legal fences.

#### **192.35 Interference with fences; trespassers on track.**

(1) Any person who does any of the following shall forfeit not less than \$10 nor more than \$50 and, in addition, be liable to the party injured for all damages resulting from the act or omission:

(a) Willfully takes down, opens or removes any railroad fence, cattle guard or crossing, in whole or in part.

(b) Allows a railroad fence, cattle guard or crossing to be taken down, opened or removed.

(c) Having lawfully taken down bars or opened gates in a railroad fence for the purpose of passing through the fence, does not immediately replace the bars or close the gate.

(2) Any person who without the consent of the party owning or having control of the road rides, leads or drives any horse or other animal upon a fenced railroad right-of-way, or who rides, leads or drives any horse or team lengthwise of an unfenced railroad track, other than at the farm crossings or upon depot grounds or where the track is laid along or across a public highway shall, for each occurrence, forfeit not more than \$10, to the party owning or having control of the railroad right-of-way, and shall also pay all damages that shall be sustained by the aggrieved party.



### **192.36 Fences, occupant of land may build or repair.**

(1) Whenever a railroad corporation fails to build or repair any fence, which the law requires it to erect, the owner or occupant of the land adjoining may, between April 1 and October 1, give notice in writing to the railroad corporation to build the fence within 60 days, or repair the fence within 30 days, after service of the notice.

(2) The notice under sub. (1) shall describe the land on which the fence is required to be built or repaired. Service of the notice may be made by delivering the notice to any station agent of the railroad corporation.

(3) In case the railroad corporation fails to build or repair the fence within the required time, the owner or occupant of the adjoining land may build or repair the fence and recover from the railroad corporation the cost of building or repairing with interest at the rate of 1 percent per month from the time that the fence shall have been built or repaired.

### **192.37 Fences, farm crossings; railroads to provide.**

(1) Whenever any corporation operates a railroad through enclosed lands and fails to construct the fences, farm crossings or cattle guards required by law, proper for the use of the enclosed lands, the owner or occupant of the lands may give notice to the railroad corporation of its failure to construct the necessary fences, farm crossings and cattle guards on the owner's or occupant's enclosed lands.

(2) The notice under sub. (1) shall meet all of the following requirements:

- (a) It shall be in writing, signed by the owner or occupant of the enclosed lands.
- (b) It shall contain a description of the owner's or occupant's enclosed lands.
- (c) It shall be served in the manner provided for the service of summons in the circuit court.

(3) If a railroad corporation, after being notified under this section, neglects for 3 months to construct the necessary fences, farm crossings and cattle guards on the lands described in the notice, it shall be liable to pay to the owner or occupant of the described lands \$10 for each day after the expiration of the 3 months until the necessary fences, farm crossings and cattle guards are constructed. No time between November 1 and April 1 shall be included in the calculation of the 3-month period under this subsection.

### **192.38 Contracts not affected.**

Sections 192.33 to 192.37 shall not affect any contract entered into between any railroad corporation and the proprietors and occupants of lands adjoining for the construction and maintenance of gates, bars, cattle guards and railroad crossings.

### **192.53 Railroad track clearance.**

(5)

(a) Except as otherwise provided in this section and subject to the power of the office to make exceptions to this section in a manner similar to the power given it in sub. (4), no railroad or shipper may do any of the following:

1. Place or construct, within 8 feet 6 inches of the center line of any railroad track, any retaining walls, fences, signs, stand pipes, conveyors,



or any other like obstruction, except railroad bridges, switch stands, mail cranes, coal, ice and water stations, intertrack fences and signals and other necessary interlocking mechanisms

2. Permit, within 8 feet 6 inches of the center line of any railroad track, the accumulation of any rubbish, waste or material of any sort, except material used for repair or construction work by the railroad company.

(b) The intent of this subsection is to afford proper clearance between railroad cars and obstructions and to promote the safety of railroad employees in switching cars.

