

Ag Radio Programs for November 13 - 19, 2017

Kansas Fence Law, Who Builds and Maintains the Fence

This is Ag Outlook on 1420 KJCK, I'm Chuck Otte, Geary County, K-State Research and Extension Ag & Natural Resources Agent. Few things in rural Kansas are more misunderstood than fence law. Kansas has a fence law and it is rather lengthy and quite specific. Unfortunately, tradition and custom often come into play and become misinterpreted as law so I want to take my programs this week to discuss some of these issues. Kansas is a fence in state which means that the owner of the livestock is responsible for keeping them contained or restrained. If the owner fails, then we get into another area of law known as the law of trespassing livestock. We'll save that discussion for a later date. If the livestock are on land owned by the livestock owner then there is little doubt who is responsible for keeping those fences up. If they are on rented land, the question becomes a little muddy and is a discussion that the landlord and the livestock owner need to have. The livestock owner is responsible for containing their animals, but the land owner, if they want to have a desirable pasture to rent out, has a responsibility as well so some form of compromise must be reached. Where two properties meet, the adjoining property owners have responsibility to maintain that fence. Contrary to tradition, the law does not have a right hand or left hand rule. It says nothing about the owners meeting at the middle of the fence and one is responsible for the half to the right or the left. What the law states is that adjoining landowners are required to build and maintain in good repair all partition fences in equal shares. Whatever the cost for the entire fence is, each owner pays half! It's called being equitable. This has been Ag Outlook on the Talk of JC, 1420 KJCK, I'm Chuck Otte.

Kansas Fence Law, Partition Fences

This is Ag Outlook on 1420 KJCK, I'm Chuck Otte, Geary County, K-State Research and Extension Ag & Natural Resources Agent. Yesterday we talked about partition fences. The law states that a partition fence is to be placed on the line between tracts owned by different persons. The law also allows for the fence to be built entirely on one side of the property. I do not encourage this and support putting it on, or very near the legal property line to avoid future conflicts from something known as adverse possession. Under adverse possession a landowner may acquire title to property by making, and I love this legal wording, an open and notorious use of the property for 15 years. This can only happen if the adjacent parties know that the fence between their properties is NOT on the boundary but do know where the actual boundary is located and one party benefitted by the misplaced fence, but the other party takes no action to remedy the problem during the 15 year period. Where this really becomes an issue is when land is sold. The new owner knows nothing about this, calls in a land surveyor who stakes where the property line really is, the new owner looks at this, often has no idea about rural land usage and all of a sudden we have a conflict. Moral of the story, always put the fence on the property line. However, there is a doctrine known as practical location where neither owner really knows where the property line is located so they agree on where to put the fence and put it in place. After 15 years of usage with the existing fence it can become the actual boundary. I know of several cases of adverse possession, all outside of Geary County. One was resolved mutually and another involved lawyers. This has been Ag Outlook on the Talk of JC, 1420 KJCK, I'm Chuck Otte.

Kansas Fence Law, What is a legal fence

This is Ag Outlook on 1420 KJCK, I'm Chuck Otte, Geary County, K-State Research and Extension Ag & Natural Resources Agent. The state of Kansas has specific details on what is a legal partition fence. Counties can adopt more stringent rules on fences, but not less stringent. To meet Kansas statutes you can have a legal fence constructed of many different materials including: posts and rails, posts and palings (we'd probably call this a picket fence), posts and planks, palisades, stone, posts and wires, even turf fences and I'm still trying to figure those out. Kansas statutes say that all of these fences must be four feet high and then it goes in to more detail on each of those. Hedge fences are even legal in Kansas. I don't mean hedge posts, I mean hedge trees planted and growing so close together such that they are high enough and thick enough to enclose domestic animals, other, as it states, than cats and dogs! But for most landowners, a legal fence is a barbed wire fence. From a legal point of view it only has to be three wires with the top wire 44 to 48 inches off the ground, the bottom wire 18 to 24 inches off the ground and the middle wire equally in between those two. Wires must be well stretched and barbed with the barbs averaging not more than nine inches apart. Wires must be securely fastened to posts and the posts must be no more than 2 rods apart, that's 33 feet for our younger listeners, and set at least 20 inches in the ground. The actual wire must be two wires not smaller than 13 gauge or one wire not smaller than 9 gauge and not having less than 950 pounds of breaking strength. And an electric fence can be a legal fence as long as it's at least 14 gauge and not more than 48 inches high! This has been Ag Outlook on the Talk of JC, 1420 KJCK, I'm Chuck Otte.

Kansas Fence Law, I don't want to pay for a fence!

This is Ag Outlook on 1420 KJCK, I'm Chuck Otte, Geary County, K-State Research and Extension Ag & Natural Resources Agent. Continuing with the Kansas fence law theme today. From time to time I will receive a phone call from a small acreage rural residential owner who has an adjoining property owner that is building a new fence and sends the small property owner a bill for their half of the fence. The question always becomes, "do I have to pay this?" The law says that adjoining property owners are equally responsible. However, Kansas law also says that if a non-livestock owner does not want their land enclosed, they cannot be forced to build or pay for an equal share of a partition fence. That sounds straightforward, but of course there are additional conditions that must be met. The first is that the one landowner doesn't want to enclose his land. That one's simple. The second one though is that the land must be used in common. In other words, the land use on both sides must be the same. If you have native grass on your side and there is native grass on the other, then you're okay. BUT, if one side is crop land and your side is just lawn or native grass, it is not used in common and you have to pay your share. OR, if your land is large enough that it is being cropped at the property line, and the neighbor's land is cropped also, you don't have to pay. HOWEVER, and I can find nothing in the law about this, I would think that if you did not pay your share and livestock came on your property and damaged anything, you wouldn't have any claim against them. Anyway, if it is possible for the small property owner to pay, I encourage them to do so to maintain neighborly relations! This has been Ag Outlook on the Talk of JC, 1420 KJCK, I'm Chuck Otte.

Kansas Fence Law - Wrapping it up

This is Ag Outlook on 1420 KJCK, I'm Chuck Otte, Geary County, K-State Research and Extension Ag & Natural Resources Agent. When I started writing this weeks radio program last week, I never thought I'd wind up doing a full week on the Kansas fence law. So how do I wrap up a week's worth of programs on fence lawn and yes, I have enough material to cover several more programs. When people come to me with questions about fences, it's usually because there has been a lack of communication. I remember quite a few years ago when a retired gentleman, out of the blue got a fence bill for several thousand dollars. They'd never been contacted by the adjoining property owner. Upon inspection there was in fact a new fence built. But he had never been contacted. Often times, on rented ground, the landlord buys the materials and the tenant provides the labor. This is a tradition that has gone on for decades and I support. But it is tradition and it is nowhere in the law. The law does allow for written agreements between property owners describing who is responsible for what. You know me - I love written agreements because they leave no room for doubt. But if there is a written agreement, then it goes back to one important concept that I already mentioned. Communication. You sit down and talk with your neighbor. You invite them over for coffee and you talk it out. You look for what's equitable, meaning each party is going to pay for ½ of the cost. You treat them like you want to be treated. Likewise, landlords and tenants need to sit down and discuss fence maintenance. You don't assume anything because the minute something is assumed, communication has broken down. Talk! This has been Ag Outlook on the Talk of JC, 1420 KJCK, I'm Chuck Otte.