

Kansas Fence Law

AGRI-VIEWS

by Chuck Otte, Geary County Extension Agent

There's an old saying that "good fences make good neighbors". This was actually penned by none other than Robert Frost and is in the poem, "The Mending Wall" written in the early 1900's and published in 1914. A poem with an interesting history and certainly worth the read. Nonetheless the saying is still relevant over 100 years later.

Kansas has a fence law that has periodically been updated and revised over the years. There's an amazing number of things that are in these statutes and there are a lot of things that people think are in the statutes that are not. As with so many things what a lot of us think are law or statute, are actually just tradition.

Many of our fence laws have evolved over the centuries from old English laws. Kansas is known as a fence in state. It is the responsibility of the livestock owner to fence the livestock in. We don't have open range as they do in some western states where a land owner has to fence their property to keep the livestock out. It's up to the owner of the livestock to keep them fenced in.

What most people are interested in are partition fences. Partition fences are those fences that designate property ownership lines or in other words the fence between your land and your neighbor's land. Kansas even has a statute on what constitutes a legal partition fence. A county may have a statute that require a partition fence that is more than the state statute but the state law says that a three strand barbed wire fence is all that is required to meet the law. There is additional language that talks about how high the bottom wire must be, wire spacing, etc.

The law also says that owners of adjoining lands are required to build and maintain all partition fences. Where most people have a misunderstanding about this requirement is who is responsible for what part of the fence. Many have heard that the two property owners meet at the middle of the fence and the half that is to the left hand or the right hand is that owners property. This is NOT what the statute says. In Kansas, the law says that building and maintaining the fence is in equal shares. Whatever it costs to build or maintain the entire section of fence, each property owner owes half of that. This eliminates the issue of one half of the fence being nice and level and the other half being up and down and a lot of rock! Each property owner is responsible for one half of the cost. Period!

A confusing part of the law is what I like to call the opt out clause. Occasionally someone buys a small property of 20 acres or less next to a larger property. If the larger property is rangeland the owner may decide a new fence is needed and the smaller property owner who is not an active agricultural producer will be contacted about paying for half of the partition fence along the adjoining property. They weren't expecting this, oft times weren't even asked about it and don't want to pay for it.

The law provides an out for those situations where the non-livestock owning property owner doesn't want to pay their half. However, not paying for their share excludes them from filing a damage claim if the neighbors livestock get out. Additionally, the land on both sides of the fence must be "used in common". If there is pasture on one side of the fence and the non-paying landowner has crops, a garden, an orchard, basically anything other than pasture, then they are still responsible to pay. I always encourage paying for their share just to be in good standing. We have a good bulletin from K-State Research and Extension called Kansas Fence Law that address these and other common fence questions!