

MISSOURI FENCE LAW CONCERNS
Local Optional Fence law for Northern MO Counties

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Joe Koenen
660-947-2705

I know that of all areas that cause confusion and conflict, Missouri's complicated fence law no doubt tops them all. In this article I thought I'd try to discuss and clarify at least some of that confusion.

Hopefully all of you are aware that there are actually 2 fence laws in Missouri – the updated general law which most counties have and the local option law which all 4 of these counties (and 12 others mostly in North Missouri) have in place. Since all of the counties where this news letter goes have the local option law, let's discuss some of the issues faced with it.

1) Do both of us have to build and maintain a boundary fence?

The local option law says that if one of you has a need for a boundary fence, then both or all of you are legally responsible for your portion. Not having livestock is not a reason to avoid putting up or maintaining a fence. The laws in these counties require all parties on a boundary (between landowners) fence to be responsible for their part.

2) How can I force someone to build their part?

The law requires you to give a person a 90 day notice that they need to build or maintain their portion of a boundary fence. I would suggest you try contacting them 1st and then if they refuse to do their part, send them a written notice. That written notice should be sent registered mail so they have to sign for it. If after 90 days they still haven't done anything, then you can contact the Associate Circuit Judge in your county. They may then contact them or force them to build or maintain their part although most judges are reluctant to force them to.

3) What portion or side of the fence should I maintain?

The tradition in these counties is that you both maintain the portion to your right if we stand at the midpoint of our boundary fence. However, there are portions in Schuyler County where the left ½ is the tradition. I would strongly suggest if you do anything other than the right ½, you need it in writing and recorded at the county recorder's office. I have a legal form that you can request for such a purpose if you need it.

4) *All the water gaps are on my side. Can I do something about getting my neighbor to share them?*

Unfortunately the law really doesn't address this problem. So if you have all the water gaps and the neighbor won't work with you on it, you will have to keep them all up.

5) *What type of fence do we need to put up?*

A legal fence in these counties is 4 barbed wire with posts no farther than 12 feet apart with no stays or 15 feet apart with one stay or a fence that is the equivalent of that. While you and your neighbor could agree to something other than that (high tensile, etc.), you face the problem of having to upgrade to that if either of you leaves for some reason and someone else comes in. You cannot legally force your neighbor to have something more than a legal fence unless you pay for the additional cost.

6) *How do we know where exactly to put this fence?*

Obviously the best place to put a boundary fence is right on the boundary line. However, that causes some issues as well. Old fence rows may or may not be exactly on the line and a land survey, while being the best way to determine a current line, is expensive and subject to change down the road. If you both can agree where to put it you are way ahead of the game.

7) *How far off the line can we clean out a place for the fence?*

Another tradition in Missouri is that we clean off all the trees, brush etc. from 10 feet on each side of the boundary line (a 20 feet space). Remember, however, that this is a tradition only and has no basis in the law. So if someone refuses, they have that right on their property. You do have the legal right to remove any obstruction to the fence. You should also make them aware of their potential liability cost-wise if their trees or brush damages your fence if they won't remove them.

8) *How can we learn more about this law?*

There are several ways to learn more about the law. One, I am holding 2 meetings in Kirksville on this topic. They will be February 21st and March 19th from 7 to 9:30 p.m. They are at the TCRC which is on 315 South Franklin and it costs \$5 to attend which includes materials.

Two, guide 810

has much more on the law. You can get it at your county Extension Office or online at

<http://extension.missouri.edu/explore/agguides/agecon/g00810.htm>.

Third, you can look over the actual statute online at

<http://www.moga.mo.gov/statutes/chapters/chap272.htm>.