

## **Legal Fences**

The statutes define what a legal fence is by the material used and the size and spacing of the fence. Sec. 90.02. Provision is made for wire, wooden and electric fences. Also, a river, brook, pond or creek may be treated as the equivalent of a fence in the judgment of the fence viewers. See sec. 90.09. Constructed fences must be at least 50 inches high and bottom may not be more than 4 inches from the ground.

## **When Required**

The *occupants* of adjoining lands used and occupied for farming or grazing are required to erect and maintain partition fences between the properties. Sec. 90.03. The *owners* of adjoining land are required to erect and maintain partition fences between their properties when the land of at least one of them is used for farming or grazing. However, the occupants may agree to use markers instead of fences or agree not to maintain a fence at all.

## **How Partitions Are Made**

The statutes provide that an owner may request two or more fence viewers to make a partition. Sec. 90.07(2). The law provides for 8 days' notice to the parties, how service is made, and requires the partition to be in writing. The viewers, in determining the division of a new line fence, whenever possible assign responsibility to the farm for the half of the line fence that is on the right when facing the farm. Sec. 90.07(3). If either party refuses to construct or maintain that party's share assigned by the viewers, the other party may, after completing his or her share, build or repair the other part and recover the expenses as provided under sec. 90.11, discussed below.

A partition is recorded in the town clerk's office. Secs. 90.05(1) and 90.07(2). The partition binds the owners, as well as their heirs and assigns, as long as the land remains in the same ownership, to build and maintain the fence in accordance with the partition agreement. The partition stays in effect after a change in ownership until another partition is made. However, the partition agreement is not effective when none of the adjoining lands are used for farming or grazing.

## **Repair of Fences**

If a person neglects to repair a partition fence, the other party may complain to two or more fence viewers. Sec. 90.10. The fence viewers, after giving the 8 days' notice under sec. 90.07(2), examine the fence and make a

determination as to its sufficiency. It is recommended that the determination be made in writing and filed with the town clerk. If the fence is insufficient, the fence viewers direct the delinquent party to repair or rebuild the fence within a specified time period. If the repair is not made, the complaining party may make the repair and recover the expense as provided below.

### **Recovery of Costs**

Whenever one party fails to construct, repair or rebuild his or her portion of a partition fence, the other party may do so, as provided above, and recover the costs. Sec. 90.11. The complaining party may call upon two or more fence viewers, who, after giving the 8 days' notice under sec. 90.07(2), inspect the fence and determine the expenses. If the fence is sufficient, they give a certificate of the costs and their own fees, authorized under sec. 90.15, to the parties.