

# Ohio Line Fence Law Says Who Is Responsible for Fences

**Q: What is the “line fence law”?**

**A:** Ohio’s line fence law, also referred to as the “partition fence law,” establishes rights and obligations for fences that are placed on the division line between properties in Ohio’s unincorporated areas.

**Q: Does the line fence law apply to all property?**

**A:** No. The Ohio line fence law does not apply to the enclosure of lots within municipal corporations, the enclosure of adjoining lots outside of a municipality, property governed by railroad laws, or property governed by a written agreement entered into and recorded by the landowners regarding a line fence.

**Q: Under the law, who is responsible for building and maintaining a line fence?**

**A:** The law creates different rules of responsibility for line fences, depending upon the type of fence at issue. An “equitable shares” rule applies to line fences that existed before September 30, 2008, a rule of individual responsibility applies to “new” fences built after September 30, 2008, and the old “equal shares” rule applies to certain governmental fences.

**Q: Under current law, who is liable for damages by trespassing livestock?**

**A:** Under the law, an owner who negligently permits his livestock to run at large will be liable for all damages resulting from injury, death or loss to person or property caused by the livestock on the premises of another.

**Q: My neighbor and I built a line fence between our farms in 2004. How does the rule of equitable shares apply to my fence?**

**A:** Since the line fence existed before September 30, 2008, you and your neighbor must “equitably” or “fairly” share responsibility for building or maintaining your fence unless you and your neighbor entered into a written agreement addressing responsibility for the fence. The law provides six factors to consider when determining each landowner’s share of responsibility: topography of the properties, presence of waterways and trees, risk of trespassers, importance of marking the division line and presence of livestock. “Equitable” may mean anything from a 50/50 split to a 100/zero split.

**Q: How do neighbors know their responsibilities under the equitable shares rule?**

**A:** A formal determination of a landowner’s equitable share would be made if either landowner files a line fence “complaint” with the board of township trustees or the court of common pleas. Alternatively, landowners can agree to establish their equitable shares themselves or continue to maintain the line fence as they did before the law changed in 2008. Landowners should file a written agreement with the county recorder.

**Q: Why is there a different rule of responsibility for “new” line fences?**

A: In times past, rural neighbors were typically farmers who had similar needs and uses for line fences. Today, it is common for adjoining lands to be used for different purposes and for only one landowner to need or desire a line fence. The old law, prior to 2008, required a landowner to share equally in the cost of building and maintaining a fence even if the landowner did not want or need the fence. The new law addresses this problem, placing responsibility for a “new” line fence solely on the landowner who wants or plans to use the fence. A “new” line fence is one placed where a line fence has never existed.

**Q: Can a neighbor use a new line fence built by the adjoining landowner?**

A: Yes, but the adjoining landowner may have a right to seek reimbursement for the fence from the neighbor. The law allows a person who builds and maintains a new line fence to file affidavits establishing the costs of the fence. If a neighbor uses the fence within 30 years of its construction, the adjoining landowner may seek reimbursement from the neighbor based upon the affidavits.

**Q: What if my neighbor and I have a dispute about our line fence?**

A: A landowner may file a complaint with the board of township trustees or court of common pleas. If unhappy with a decision on a line fence complaint, a landowner may appeal the result or use a new procedure for binding arbitration.

**Q: What other provisions are in the line fence law?**

A: The law also addresses removal of line fences, rights of access for building and maintaining line fences, requirements for clearing the fence row, standards for new line fences containing livestock, and penalties for obstruction of lawful line fence construction and maintenance.

**Q: Where can I learn more?**

A: The line fence law is Chapter 971 of the *Ohio Revised Code*, available online at <http://codes.ohio.gov/orc/971>. The Ohio State University also provides resources on the line fence law at <http://aglaw.osu.edu/home>.

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*This “Law You Can Use” column was provided by the Ohio State Bar Association. It was prepared by Peggy Kirk Hall, an attorney with The Ohio State University Agricultural & Resource Law Program.*

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